

Partisan Bias and Competition: The Effect of Redistricting Methods on State
Legislative Elections

Jenna Ashley Robinson

A dissertation submitted to the faculty of the University of North Carolina at
Chapel Hill in partial fulfillment of the requirements for the degree of Doctor of
Philosophy in the Department of Political Science.

Chapel Hill
2012

Approved by
Thomas Carsey
Richard Engstrom
Virginia Gray
Kevin McGuire
Andrew Taylor

ABSTRACT

JENNA ASHLEY ROBINSON: Partisan Bias and Competition: The Effect of
Redistricting Methods on State Legislative Elections
(Under the direction of Virginia Gray)

Since Elbridge Gerry signed his infamous salamander, legislative redistricting has been a highly contentious and partisan process. Reformers have used legal constraints, court cases, and changes in redistricting authority to attempt to create districts that are fair and competitive. This work examines whether those methods are successful. Specifically, I test whether independent redistricting commissions, traditional districting principles, and court challenges affect partisan symmetry and whether partisan symmetry plays a role in electoral competition. I find that maps drawn by commissions, courts, and executive officials have a higher degree of partisan symmetry than those drawn by state legislatures and that maps with more symmetry result in more competitive legislative elections.

TABLE OF CONTENTS

LIST OF TABLES.....	vi
---------------------	----

LIST OF FIGURES.....	vii
----------------------	-----

Chapters

I. FAIRNESS IN REPRESENTATIVE DEMOCRACY.....	1
Democracy and Elections.....	5
Fairness in Representative Democracy.....	9
The Importance of Procedural Fairness in Electoral Systems.....	16
A Defense of Competition.....	20
II. A HISTORY OF REDISTRICTING.....	27
Thesis.....	27
Representation: A History of Voting in the United States.....	28
Competition and Fairness—Is there a Relationship?.....	36
Reforming the Reapportionment Process.....	37
III. REDISTRICTING AND PARTISAN SYMMETRY.....	47
Measuring Electoral Fairness.....	48

Case Selection.....	52
Data and Measurement.....	56
Results.....	63
Discussion.....	67
IV. PARTISAN SYMMETRY AND COMPETITION.....	76
Redistricting and Competition.....	75
Measuring Competition.....	79
Sources of Competition in State Legislative Elections.....	80
Data and Methods.....	83
Results.....	85
Discussion.....	88
V. REDISTRICTING IN NORTH CAROLINA 2000-2010.....	93
History.....	93
Rules for Redistricting.....	101
North Carolina Redistricting Goals.....	105
Conclusion.....	114
VI. CONCLUSION.....	123
Contributions to Literature.....	125
Normative Implications.....	126

North Carolina Public Policy Implications.....	130
Conclusion.....	136
APPENDIX A: REDISTRICTING CASES 1990-2010.....	137
APPENDIX B: NC INTERVIEW QUESTIONS.....	149

List of Tables

Table 2.1: States' Redistricting Methods (2000).....	46
Table 3.1: States Included in District-Level Partisan Symmetry Analysis.....	69
Table 3.2: Traditional Districting Principles.....	70
Table 3.3: Partisan Symmetry at the State Level.....	71
Table 3.4: Summary Statistics on Partisan Symmetry, State-Level Data.....	72
Table 3.5: Partisan Symmetry as a Function of Redistricting Method, Traditional Districting Principles, and Influence of the Courts.....	75
Table 4.1: Electoral Competition: State Level Variables.....	90
Table 4.2: Electoral Competition Summary Variables.....	91
Table 4.3: Competition as a function of Partisan Bias.....	92
Table 5.1: Maps Used in North Carolina Elections, 2000-2010.....	115

List of Figures

Figure 2.1: Elbridge Gerry's Salamander.....	45
Figure 3.1: State-Level Partisan Symmetry and Redistricting Methods.....	73
Figure 3.2: Seats-Votes Curves.....	74
Figure 5.1: Original 1992 NC House plan (Used in 1992-2000 elections).....	116
Figure 5.2: Sutton NC House Plan 5 (Never Used).....	117
Figure 5.3: Sutton NC House Plan 3 (Never Used).....	118
Figure 5.4: Interim/Jenkins House Maps (Used in 2002 NC Elections).....	119
Figure 5.5: 2004 NC House Redistricting Plan (Used in 2004 Elections).....	120
Figure 5.6: NC House Maps after HB 1621 (Used in 2010 Elections).....	121

CHAPTER ONE: FAIRNESS IN REPRESENTATIVE DEMOCRACY

In 2000, Barack Obama, then an Illinois state senator, challenged Congressman Bobby Rush in the Democratic primary. Obama received 30 percent of the vote in a four-way contest; Rush retained his seat. Wishing to avoid challengers in future elections, Rep. Rush used the congressional redistricting process—which, in Illinois, is in the hands of the state legislature—to shift his district's boundary so that Obama's residence was no longer in his own district and instead in Rep. Jesse Jackson Jr.'s district. His ambitions temporarily thwarted, Obama turned to the state legislative redistricting process to pave the way for his eventual U.S. Senate campaign. Due to a quirk in timing, Illinois state legislative districts were drawn after the congressional districts. Obama helped to redraw his African-American majority state senate district in central Chicago to include expensive high-rise apartments north of downtown along Lake Michigan's shoreline—creating a biracial electoral coalition that later helped him win his seat in the U.S. Senate (Mercurio 2001).

Following the 2000 Census, then-state legislator Brad Miller played a significant role in drawing North Carolina's new Congressional maps—including a new district to accommodate the state's growing population. The new 13th district, which included many urban Democrats, also included now-Congressman Miller's house—and cuts the city of Raleigh in thirds. (After Republicans gained control of

the North Carolina Legislature in 2010, they altered the district to exclude Miller's neighborhood—forcing Miller to run against another incumbent Democrat or leave Congress.)

Sam Roberts of the *New York Times* recounted an election in Iowa wherein prisoners made up most of one city council district. During the 2002 election cycle, the town of Anamosa, Iowa was divided into four City Council wards of about 1370 people each. Ward 2, however, contained a state penitentiary that housed over 1320 prisoners—who are not allowed to vote. Thus, Ward 2's actual population was comprised of fewer than sixty eligible voters. Anamosa's districting plan granted approximately sixty true Ward 2 constituents the same level of representation on the City Council accorded to over 1300 people in each of the other three wards.

In each case, the individuals drawing the maps stood to gain personally by influencing the redistricting process. In this dissertation, I will examine: Which apportionment methods lead to fair elections? Are some methods more effective than others? Do fairer districts lead to more competitive elections?

In order to answer these questions, I examine fairness in electoral outcomes, competition in elections, and the effect of redistricting on both fairness and competition. Specifically, I measure the effects of different systems of apportionment—apportionment by legislators, legislators and governors, judges, and independent commissions—on the fairness of electoral outcomes in state house races in ten states (Alabama, Indiana, Iowa, New Jersey, Mississippi, New York, Oregon, Rhode Island, Washington, and North Carolina, with a special

emphasis on the latter) from 2000 to 2008. The states were chosen to represent the different mechanisms used to apportion legislatures across the states as well as political culture and regional variation, including Voting Rights Act restrictions (more on state selection in chapter 3). I then determine whether fair elections lead to more electoral competition by examining election outcomes.

In North Carolina, I carefully examine General Assembly elections from 2000 to 2010, when the districts changed frequently due to legal challenges brought by the minority Republican party during that time. As such, the quickly changing districts, and the history, personalities, and strategies involved are an excellent case study. In this chapter, I consider the concept of fairness and its history as a component of democratic elections.

DEMOCRACY AND ELECTIONS

Jonathan Winburn summarizes the normative importance of fair redistricting in *The Realities of Redistricting*: “Democracy does not exist without elections. For a democracy to endure, elections must not only take place, but be held in a free, open, and competitive manner where citizens’ voices can be heard” (p.2).

As such, thorough understanding of the effects of redistricting at all levels is imperative for thriving democracy. Redistricting is one of the few activities that allow incumbent elected officials to directly affect their future as political candidates and the quality of democracy in the area where they serve. Legislative redistricting is among the most partisan of policy activities undertaken

by state legislatures. In essence, the legislature takes the position that political districting is a matter of preserving self-interest: “the spoils of politics belong to the strongest and district line-drawing can be manipulated to improve the political position of the party which controls each chamber” (*Book of the States* 2005, p.10).

Many government reformers in the United States have targeted redistricting as the area most in need of attention. Good government advocates on both sides of the aisle have called for more “fair” elections. *St. Petersburg Times* columnist Martin Dykman summarized reformers fears about gerrymandered districts: “You didn’t choose your legislators, they chose you” (2003: D3).¹

But what is “fairness?” Many people see “fairness” as a synonym for accurate representation—embodied by the principle of one person, one vote. As such, “fairness” is measured in proportional voting systems simply by comparing the proportion of seats awarded to party members in the legislature to votes cast for that party and its candidates in a given system. In such systems, looking at electoral outcomes is sufficient to determine whether the system is “fair.” Measuring fairness in plurality voting systems, such as those used in the United States, is more difficult; scholars must look both at representation and partisan, incumbency, and racial bias. Elimination of malapportionment is not enough to ensure fairness.

Historically, legal reformers and scholars have focused on one type of

¹ As quoted in Winburn 2008.

procedural fairness (eliminating biases) instead of either on who draws the maps, which is another procedural concern, or on examining outcomes (representation). Legal reformers focused on an idea of fairness mainly consisting of an absence of barriers to representation. (Some notorious such impediments to voting included literacy tests, poll taxes, “grandfather” clauses, and other regulations in the Jim Crow South intended to prevent African Americans from voting.)

These state provisions were upheld by the Supreme Court in early litigation, from 1875 (*United States v. Cruikshank*) through 1904. The House Committee on Elections ceded responsibility for elections in its 1905 decision on *Dantzler v. Lever*, which suggested that that citizens of South Carolina who felt their rights were denied should appropriately take their cases to the state courts, and ultimately, the Supreme Court (Pildes 2000).

During the early 20th century, the Supreme Court began to find Jim Crow restrictions unconstitutional in litigation of cases brought by African Americans and poor whites. States reacted rapidly in devising new legislation to continue disfranchisement of most blacks and many poor whites. Although there were numerous court cases brought to the Supreme Court, Southern states effectively disfranchised most blacks through the 1960s.

Later, legal reformers tackled racial gerrymandering with procedural reform by enacting the Voting Rights Act of 1965, which outlawed discriminatory voting practices. Such practices had been responsible for the widespread disenfranchisement of African Americans in the U.S. by establishing extensive federal oversight of elections administration, particularly in the South.

Even after the Act's passage, elimination of gerrymandering—both racial and political—remained the foremost goal of elections reformers. In order to achieve that goal, reformers rely on institutions and regulatory changes such as competitiveness requirements and even compactness standards. But such barriers to gerrymandering may not adequately address reformers' root concern—the fairness of elections' outcomes. (Partisans, on the other hand, may be disappointed that “fair” elections may not lead to the competitiveness that they desire—when not the party in power.)

In more recent years, reformers have focused on another type of procedural fairness. They have mounted challenges to gerrymandering by removing the power of redistricting from legislators, an attempt to reign in self-interest by either ensuring that no major party is excluded from the process or else guaranteeing that all political parties are excluded from the process (Gaines 2002). Of course, it is possible, and even common, for electoral districts to be fair without resulting in competitive elections, and vice versa.

The question remains: do redistricting reforms—such as special redistricting commissions, non-partisan boards, and judicial review of apportionment maps—really make elections more “fair?” Do other constraints on apportionment, such as compactness or whole-county provisions, contribute to fairer elections?

There is no consensus among social scientists on how to evaluate fairness of maps according to actual election outcomes or even projections about new maps based on past outcomes. Decades of academic work on seats, maps,

and votes have produced many useful techniques for measurement.

A measurement modeling tool developed by Andrew Gelman, Gary King, and Andrew C. Thomas (1987) allows users to answer that question, using partisan symmetry, or the absence of asymmetry in the seats-votes relationship, as a standard of fairness in legislative redistricting. Gelman and King define partisan symmetry to mean that in an election system where $x\%$ of the Democratic votes produces an allocation of $y\%$ of the seats to the Democrats, then when the Republicans win that same $x\%$ of the votes, the Republicans would win the same numbers of $y\%$ seats the Democrats had. They define partisan bias as absence of symmetry.

This measurement of fairness incorporates principles that can be traced to the beginning of democratic elections. These principles ensure that democratic elections abide by the rule of law and reflect the real preferences of voters in a predictable, systematic, and unbiased manner.

FAIRNESS IN REPRESENTATIVE DEMOCRACY: THE EVOLUTION OF A CONCEPT

The Merriam-Webster Dictionary defines something to be fair if it is a) marked by impartiality and honesty : free from self-interest, prejudice, or favoritism a very *fair* person to do business with b) (1) conforming with the established rules : ALLOWED (2) consonant with merit or importance : DUE a *fair* share or c) open to legitimate pursuit, attack, or ridicule *fair* game.

This definition is insufficient, however. We must ask: What is fairness in the context of democratic elections? Fairness to whom? Is it the process, the

outcome, or both that should be held to some standards? What features of process or outcome reflect “fairness”?

Montesquieu (1748) proposed that a requirement for a real democracy is that the people should assemble to pass laws, and consequently that such a republic could have only a small territory. John Stevens (1787), under the pseudonym “Americanus” explained that the solution to this problem was to introduce the concept of representation, which would demand less of its citizens than direct democracy and allow for larger republics. Representation—the practice of some chosen individuals to stand in for the opinions and preferences of others—has become one of two cornerstones of the modern concept of electoral fairness.

It should be noted that fairness is, at least in part, predicated on the idea that representatives reflect the preferences of the electorate—at least in broad terms. British politician Edmund Burke in his 1774 *Speech to the Electors at Bristol at the Conclusion of the Poll* outlined the principles of representation against the notion that elected officials should be delegates who exactly mirror the opinions of the electorate.

It ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinion, high respect; their business, unremitting attention. It is his duty to sacrifice his repose, his pleasures, his satisfactions, to theirs; and above all, ever, and in all cases, to prefer their interest to his own. But his unbiased opinion, his mature judgment, his

enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure; no, nor from the law and the constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion" (1990, p. 6).

Pitkin (1967) notes that Burke considered a district's interest as linked with the proper behavior of its elected official, explaining, "Burke conceives of broad, relatively fixed interest, few in number and clearly defined, of which any group or locality has just one. These interests are largely economic or associated with particular localities whose livelihood they characterize, in his over-all prosperity they involve" (p. 174)

In modern democratic theory, the other prerequisite for electoral fairness is lack of partisan bias (or presence of partisan symmetry). Partisan bias introduces asymmetry into the seats-votes relationship, resulting in an unfair partisan differential in the ability to win legislative seats. In the absence of any bias, representation can take two pure forms: strict proportional representation, in which the percentage of seats equals the percentage of votes; and winner-take-all elections (in which the single winner is the person with the most votes). Many other possibilities exist in between these two pure forms. The essence of fairness—lack of bias and accurate one person, one vote representation—in democratic states is realized in the translation of seats to votes. Adam Cox (2004) correctly identifies partisan fairness as “a normative commitment that both

scholars and the Supreme Court have identified as a central concern of districting arrangements” (p. 751).

This modern conception of fairness evolved years after the beginnings of democracy. It is only in very recent history that both features of fairness have become apparent in any political systems.

The term democracy first appeared in ancient Greek political and philosophical thought. In his *Laws*, Plato (360 BCE) outlined a system of government in which the principle of representation is evident in both the composition of the assembly and in the method of selecting magistrates and the council.

Charles Hignett (1962) describes the political system in Athens, birthplace of democracy, which had two distinguishing features of democratic government: the allotment of ordinary citizens to government offices and courts and the assembly of all citizens. But even in this radical new system, bias was rampant and representation almost unheard of. Instead of rule by one, Athens’ government was ruled by relatively few. Rights of citizens rested largely on heredity; only men from certain families who had completed their military service—a little more than ten percent of the population—were given the franchise; this excluded women, slaves, those who were born in other cities, and any man who had not served in the military. Those who did vote were *de facto* members of government, voting not for representatives but directly on legislation and executive bills. Those few participants in government exercised considerable power over those without voting rights (Hignett 1962).

In one way, however, Athenian government laid the groundwork for modern ideas about the rule of law. Around 500 BC, widespread demand among Athenian commoners for equal laws and rights among all citizens led Cleisthenes, “father of Athenian democracy,” to reform the constitution of Athens to set it on a democratic footing in 508/7 BC.

He changed the political organization of Athens by increasing the size of the assembly, increasing the number of tribes and changing the basis of their composition from family ties to area of residence, and dividing governance nationally and locally (Aristotle, 350 BCE). These changes created a rudimentary form of districts. Cleisthenes’ motivating concept—equality under the law—is the fundamental basis for the modern one-man-one-vote principle. This constitutional change to the number and composition of tribes was, in effect, the first redistricting. The partisans of the day—those who might have benefited or lost by different possible divisions of tribes—had no hand in making these decisions.

By the time of the Roman Republic, some form of representation had emerged along the lines suggested in Plato’s *Laws*, but bias kept participation low. Although domestic laws were still passed by way of direct democracy in various councils and assemblies, citizens also elected their own magistrates, tribunes, and military leaders to represent them in foreign and military affairs. The Tribal Assembly’s composition was based on geographical divisions, much like modern Congressional districts. Strong biases based on ancestry, class, and gender kept many Romans from participating in government affairs. Today’s modern representative democracies imitate more the Roman model—with its

division of powers and multiple legislative chambers—than the Greek (Lintott 1999).

In “Letters from the Federal Farmer” Lee, (1787) explains the main “defect” of the Roman system compared to more modern representative democracies: it lacked an appropriate system of representation. He states, “The people were too numerous to assemble, and to do anything properly themselves; the voice of a few, the dupes of artifice, was called the voice of the people” (Lee 1787, Letter VIII). Millar (2002) summarizes this argument in *The Roman Republic in Political Thought*: “The ten tribunes were no substitute for the proper level of representation shown in the British House of Commons, for they were mere individuals who belonged to the same class as the other Senators” (p. 122).

The next national democratic experiment began in Swiss cantons as early as the 14th century. When Switzerland became a federal state in 1848, direct democracy instruments were introduced at the national level as well. The federal constitution introduced the principle of holding a mandatory referendum in order to change the constitution, as well as the popular initiative for a total revision of the constitution. Further rights of referendums were introduced in 1874, and the popular initiative for a partial revision of the constitution in 1891. This commitment to full participation and equal input for ordinary citizens produces fair outcomes by forcing the government to seek wider consensus about statutory (and constitutional) measures that it seeks to introduce than is the case in a purely representative system (Greenwood 1998).

In *Liberalism: A Socio-Economic Exposition*, Ludwig Von Mises outlined history's aversion to the principles of equality under the law that underlie the ideal of one person, one vote:

Before the rise of liberalism even high-minded philosophers, founders of religions, clerics animated by the best of intentions, and statesmen who genuinely loved their people, viewed the thralldom of a part of the human race as a just, generally useful, and downright beneficial institution. Some men and peoples are, it was thought, destined by nature for freedom, and others for bondage" (Mises 1978, p.20).

Throughout U.S. history, there have been two fronts in the war to improve electoral fairness: one to eliminate racial and gender biases and another to eliminate gerrymandering. The word gerrymander was used for the first time in the Boston Gazette newspaper on March 26, 1812. The word was created in reaction to a redrawing of Massachusetts state senate election districts under the then governor Elbridge Gerry. Gerrymandering is used to achieve desired electoral results—usually for a particular party or political incumbents, but also to help or hinder a particular group of constituents, such as a political, racial, linguistic, religious or class group. Societies whose legislatures use a single-winner voting system are the most likely to have members that gerrymander for partisan political advantage. Gerrymandering is particularly effective in non-proportional systems that tend towards fewer parties, such as first past the post used in the United States.

The Center for Voting and Democracy, which focuses on fairness in representation and participation, calls the process of gerrymandering an unfair

abuse of reapportionment for partisan purposes. “By gerrymandering the districts, legislators and their political cronies have used redistricting to choose their voters, before voters have had the opportunity to choose them” (FairVote.org, 2011).

The modern judicial definition of fairness regarding apportionment and representation first appears in *Gaffney v. Cummings* (1973), in which the Court permitted deviations in population that contributed to a more balanced partisan districting plan: “The very essence of districting is to produce a different—a more ‘politically fair’—result than would be reached with elections at large...” (93 S. Ct. 2321 at 2329). Later cases cite the same principle; in *Davis v. Bandemer* (1986), which addressed partisan gerrymandering, the Supreme Court elaborated: “The very essence of districting is to produce a different—a more ‘politically fair’—result than would be reached with elections at large, in which the winning party would take 100 percent of the legislative seats” (106 S. Ct. 2797 at 2808).

Typical measures of electoral fairness compare the fairness of electoral outcomes *between* systems. The single-member district plurality system used in most U.S. states is often criticized for encouraging tactical voting, wasted votes, and gerrymandering, and discouraging third parties. Critics note that the most commonly expressed disadvantage of any first-past-the-post systems is that the winners of the election may not precisely reflect the distribution of votes, with substantial minority vote blocs ignored in their entirety, to the advantage of plurality winners.

Measuring fairness within a plurality system is more difficult. “Partisan fairness” can mean many things. Some reformers and scholars equate political fairness with proportional representation and conclude that election systems are politically fair only when they guarantee proportional representation for every constituency—politically and demographically. At the opposite end of the spectrum, some argue that a pure winner-take-all system is most fair. The simplest, and least contentious, definition of partisan fairness, called “partisan symmetry” is the absence of partisan bias, where partisan bias is the degree to which the electoral system makes it easier for one party (and harder for the other) to translate its votes into seats.

A consensus has existed in the academic literature since at least King and Browning (1987) on partisan symmetry as one standard for fairness, and even the U.S. Supreme Court now appears to agree that symmetry might be a helpful tool (*LULAC v. Perry*); see Grofman and King (2008). The concept of partisan symmetry as a standard for assessing partisan gerrymandering defines, distinguishes, and measures "partisan bias" and "electoral responsiveness" (or "representation"), key concepts that had been conflated in much previous academic literature, and "partisan symmetry" as the definition of fairness to parties in districting. Grofman and King (2008 pp.4-5) wrote “the symmetry standard...requires that the electoral system treat similarly-situated parties equally, so that each receives the same fraction of legislative seats for a particular vote percentage as the other party would receive if it had received the same percentage.” The symmetry definition of fairness evaluates the electoral

system as a whole by evaluating how voter preferences statewide are translated into the division of legislative seats between the parties.

Using partisan symmetry as a standard, it is possible to examine districting processes, various measures of competition—including seat share, vote share and analysis of individual contests—and their relationship to electoral fairness in state elections. Ultimately, this dissertation uncovers the various factors that explain fairness, with a focus on the role of redistricting, and measures the relationship between fairness and competition.

Others insist that fairness is impossible to quantify. They say that Justice Potter Stewart’s observation about obscenity—“I’ll know it when I see it”—applies just as well to unfairness in elections (*Jacobellis v. Ohio* 378 U.S. 184). The existence of obviously gerrymandered districts lends credence to this argument.

According to many reformers, the U.S. has not achieved fairness—whatever the definition. Writing for the Heartland Institute, a reform group that wants to reign in legislative redistricting, political scientist Brian Gaines (2001 p.1) has this to say about the process: “So widespread is the belief that these districts are typically drawn in an unfair way that many people use the pejorative term ‘gerrymandering’ as a synonym for ‘redistricting.’

THE IMPORTANCE OF PROCEDURAL FAIRNESS IN ELECTORAL SYSTEMS

Max Weber (2004 p.154) said in *Politics as a Vocation* that something is “a 'state' if and insofar as its administrative staff successfully upholds a claim on the monopoly of the *legitimate* use of violence in the enforcement of its order.”

The idea of legitimate use of force is what separates a Hobbesian jungle—the “war of all against all”—from a modern political state. Throughout most of Western history, legitimate rule was held to be a divine right, passed from God to Kings.

It is only since the Enlightenment that scholars have held that a government's legitimacy and moral right to use state power is only justified and legal when derived from the people or society over which that power is exercised.

In Hobbes' *Leviathan* (1651), one of the earliest and most influential examples of social contract theory, individuals cede their rights to an absolute sovereign in exchange for protection. According to Hobbes, once citizens have ceded authority, they may not reclaim their rights or alter the form of government. Representation mattered little to Hobbes; he believed that democracy was possible, but inferior in every way to an absolute monarchy.

Modern democracies establish consent of the governed, and thus legitimate right to rule, via elections to choose representatives of the people.

The American Declaration of Independence states, “Governments are instituted among Men, deriving their just powers from the consent of the governed...” The founders of the United States believed, like the political philosopher John Locke, in a state built upon the consent of “free and equal” (while male) citizens; in their eyes, a state otherwise conceived would lack legitimacy and legal authority. This idea was also expressed in the Virginia Bill of Rights, especially Section 6:

That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of

permanent common interest with, the attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for publick uses *without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assented*, for the public good."

In order to fulfill the promises of the Declaration of Independence, elections must be unbiased and governments must represent all of the citizens who are governed. Most of the barriers to truly fair elections, once common across the United States, have now fallen. From the end of property requirements for voting, to the fifteenth, nineteenth, and twenty-sixth amendments—giving franchise to blacks, women, and all citizens over 18—to the end of Jim Crow laws in the South, most of the United States populace now give at least tacit consent to be governed through their freedom to participate in elections (Simmons 1976).

A DEFENSE OF COMPETITION

The Center for Responsive Politics reports that from 1998 to 2008, U.S. House incumbents have won between 94 and 98 percent of their reelection races. Electoral competition is in decline in state and primary elections as well. Reformers, who point to gerrymandering and a host of other targets for change, argue that improving competition will produce voters who are more interested in elections, better-informed on issues, and more likely to turn out to the polls.

The legislative branch of government was designed to be responsive and accountable; yet for many around the country it is becoming stagnant and immune to constituents' concerns (Center for Responsive Politics 2012).

Elections are the vehicles through which Americans choose who governs them; the power of the ballot enables ordinary citizens to hold public officials accountable. Competition is necessary to keep American politics vibrant, responsive, and democratic.

Michael P. McDonald and John Samples chronicled many normative arguments favoring electoral competition in their book, *The Marketplace of Democracy: Electoral Competition and American Politics* (2006 Ch.1). They name liberty, equality and accountability, community concerns and constitutionality as arguments favorable to increasing competition in U.S. elections.

Liberty: Classical liberals believe that government possesses a monopoly on violence that is both necessary and a threat to its citizens. Economists expect that, all things being equal, a monopolist will charge higher prices to consumers than would exist under perfect or imperfect competition. Similarly, economically minded citizens should expect that those who hold a monopoly on the legitimate use of violence will use it to further their own interests at some cost to the interests of others. In the absence of some effective constraint on government, the ruled should expect to be exploited by their rulers. Hence, in studying politics, public choice scholars have sought a set of institutions that constrain the actions of government officials in light of the wants of citizens (McDonald and Samples 2006 Ch. 1). Elections and electoral competition, especially at the state level where most immediate policy is made, are means to control that monopoly on violence and restrain its abuse. The classically liberal part of the American vision

of politics thus values electoral competition as a way to control and limit government, thus preserving individual liberty.

Equality: Electoral democracy begins with equality as embodied in “one person, one vote.” In shirking their responsibilities, elected officials acquire unaccountable power, an inequality that undermines the basic principle of democracy. Moreover, Progressives believe that representatives who are unaccountable to their voters are likely to be responsive to the political agenda of the economically powerful (McDonald and Samples 2006 Ch.1). Increased electoral competition precludes shirking and helps to decrease political inequality.

Accountability: Vigorous competition among candidates and parties ensures that public officials serve the interests of those who elected them. Democratic theorists value electoral competition as a way to ensure that representatives are accountable to voters. As political scientist G. Bingham Powell² (2002, p.20) said,

“the citizens’ ability to throw the rascals out seems fundamental to modern representative democracy because it is the ultimate guarantee of a connection between citizens and policymakers. It enables the citizens to hold the policymakers accountable for their performance. Such accountability is a keystone of majoritarian democratic theory.”

The Community: Fair representation requires a commitment to a government that reflects the preferences of its people (McDonald and Samples 2006 Ch.1). If those preferences are distributed normally on a single issue,

² As quoted in Ischaroff 2002.

everyone is fully informed, a single representative is selected from a district, and majority rule determines outcomes, lawmakers will ultimately take policy stands that appeal to the median voter of their district (Downs 1957). Electoral competition between two viable candidates is essential to this outcome.

Competition has other benefits to the general community besides representation. Electoral competition provides a partial solution to the problem of lack of voter information. Competition is related to more free campaign coverage by the media and more campaign expenditures aimed at informing and mobilizing voters. Competitive elections interest voters and draw them to the polls. Competition thereby fosters other indicators of a healthy democracy, such as higher levels of participation by voters and activists and stronger political parties that must evolve or perish in Darwinian political conflict (Cox and Munger 1989, pp. 217–31).

Constitutionality: The Constitution of the United States does not specifically require electoral competition, however several legal scholars have argued that the current dearth of electoral competition violates article 1 and the First Amendment of the Constitution.

According to the Founders, the U.S. Constitution grants enumerated powers from the people to their government. Powers that are not granted to the state or national governments are retained by the people. Article 1, section 4 of the U.S. Constitution states that the “Times, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof.” This grant of power does not include “the power to

regulate congressional elections with the aim and effect of artificially insulating members of Congress from electoral competition through state creation of overwhelmingly 'safe,' non-competitive congressional election districts" (Isscharoff 2002 p.19). Yet the evidence indicates that state legislatures have exercised just such a power.

Article 1, section 2 of the U.S. Constitution states that

"The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

McDonald and Samples (2006 Ch.1) explain that this language serves to recognize the sovereignty of the people and their affirmative right to elect the House of Representatives. Insofar as incumbent officials manipulate the electoral system to reduce electoral competition, they might be said to abridge the ultimate power of citizens. The First Amendment to the Constitution also bears on this issue. The First Amendment seeks to secure the conditions of liberal democracy, not the least of which is "the free flow of information needed to permit genuine electoral choice" (Isscharoff 2002 p.20). When incumbents create safe electoral districts, they preclude such choice and thereby contravene the fundamental purpose of the First Amendment.

UP NEXT

In Chapter two, I lay out several options for achieving fairness via the redistricting process and traditional districting principles. I also describe the

legislative and judicial history of apportionment, highlighting the reforms that significantly changed the way Americans elect their legislators and lawmakers reapportion their districts.

Chapters three and four are empirical analyses. In chapter three I measure the effects of legislative redistricting on fairness, defined as partisan symmetry. Specifically, I will measure the effects of different systems of apportionment—apportionment by legislators, legislators and governors, judges, and independent commissions—on the partisan symmetry of electoral outcomes in state house races in ten states from 2002 to 2008. This analysis shows that both redistricting processes and traditional districting principles affect partisan symmetry.

In chapter four, I test whether partisan symmetry, and by proxy reapportionment, affect electoral competition. This analysis shows that the degree to which a state apportionment plan achieves partisan symmetry affects electoral competition in legislative elections in that state.

In chapter five, I examine the redistricting process in one state—North Carolina—from 2000 to 2010. During that period, redistricting maps were challenged in both state and federal court, redrawn by judges and legislatures, ultimately creating a natural experiment in the effects of redistricting on electoral outcomes. I also examine the views of participants in the redistricting process about redistricting's effects on fairness and competition. Through this case study, I will show that reformers, minority party members, and most partisan and non-partisan observers are more interested in competition and electoral outcomes

than procedural fairness, but often conflate fairness and competition in measuring the success of electoral reform.

In chapter six, I review my findings and explore the implications of those findings, including possible normative consequences of such findings.

CHAPTER TWO: A HISTORY OF REDISTRICTING

In this chapter, I examine the history of redistricting in the United States—from Elbridge Gerry’s famous salamander to recent court challenges upholding traditional districting principles. I focus on the legal boundaries guiding redistricting over the years, with a goal of focusing on practices and regulations that foster partisan symmetry and competition and highlighting the reforms that significantly changed the way Americans elect their legislators and lawmakers reapportion their districts—such as judicial mandates of one, person, one vote and embargoes against racial gerrymandering.

I also examine the four redistricting methods commonly used by states—redistricting by legislature, redistricting by legislature and governor, redistricting by legislature and commission (hybrid), and redistricting by nonpartisan, independent, or bipartisan commission only. I will also consider the rare case in which judges participate in the redistricting process.

THESIS

In studying redistricting processes, I expect to find that districts drawn by disinterested parties, such as non-partisan districting commissions and judges, are fairer than those drawn by legislators, even in states where other constraints—such as Section 5 of the Voting Rights Act or other

districting principles—are legally in place. I also expect to find that fairer districts contribute to, but are not sufficient to create, competitive elections. By looking closely at the North Carolina case, I expect to find that interested parties, including legislators and other partisans, often conflate competition and fairness.

REPRESENTATION: A HISTORY OF VOTING IN THE UNITED STATES

Although the U.S. Constitution set basic guidelines for the election of the United States Congress, it leaves state level elections in state hands. States have created their own guidelines for elections. In North Carolina, for example, the state constitution prescribes: “at the first regular session convening after the return of every decennial census of population taken by order of Congress, [the state] shall revise the senate districts and the apportionment of Senators among those districts” (Article II, Section 3). It includes a similar clause concerning North Carolina House members.

For the most part, federal rules have been a model for state rules. In many cases, federal case law has eventually come to govern state elections as well.

A Timeline of Representation and Redistricting in the U.S.

1789 The U.S. Constitution is ratified, creating “a Congress of the United States, which shall consist of a Senate and House of Representatives” which “shall be apportioned among the several States which may be included within this Union, according to their respective Numbers.” Election regulations are left to the states: “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof.”

- 1812 The term "Gerrymandering" is coined when Governor Elbridge Gerry signed a bill that redistricted Massachusetts state Senate districts to benefit the Democratic-Republican Party.
- 1870 15th Amendment to the Constitution is enacted, prohibiting the denial of suffrage based on race, color, or previous condition of servitude.
- 1913 17th Amendment to the Constitution is enacted, mandating direct election of U.S. Senators.
- 1920 19th Amendment to the Constitution is enacted, establishing women's suffrage.
- 1944 In *Smith v. Allwright*, the U.S. Supreme Court overturns the Democratic Party's use of all-white primaries in Texas and other states where the party used the rule.
- 1962 In *Baker v. Carr*, the U.S. Supreme Court establishes that reapportionment issues present justiciable questions, thus enabling federal courts to intervene in and to decide reapportionment cases.
- 1964 24th Amendment to the Constitution is enacted, prohibiting the revocation of voting rights due to the non-payment of poll taxes.
- 1964 "One Person, One Vote" principle is codified at the national level by *Wesberry v. Sanders*, in which the U.S. Supreme Court ruled that congressional districts had to be roughly equal in population.
- 1964 "One Person, One Vote" principle is codified at the state level by *Reynolds v. Sims*, in which the U.S. Supreme Court ruled that state legislative districts must be roughly equal in population.
- 1965 Voting Rights Act is passed, requiring Justice Department preclearance for apportionment maps in certain states that have had a history of racial barriers to voting.
- 1980 In *City of Mobile v. Bolden*, the Supreme Court finds that a redistricting plan would not violate the Fourteenth Amendment or Section 2 of the Voting Rights Act unless the plaintiffs could prove that its drafters intended to discriminate against them.
- 1982 Section 2 of the Voting Rights Act is amended to clarify that it applied to any plan that results in discrimination against a member of a racial or ethnic minority group, regardless of the intent of the plan's drafters.

- 1986 *Thornburg v. Gingles*, the Court sets forth three preconditions a minority group must prove in order to establish a violation of Section 2: 1) The minority group must be sufficiently large and geographically compact to constitute a majority in a single-member district; 2) The minority group must be politically cohesive, that is, it must usually vote for the same candidates; and 3) In the absence of special circumstances, block voting by the White majority usually defeats the minority's preferred candidate.
- 1993 In *Shaw v. Reno*, the Court ruled in a 5-4 decision that redistricting based on race must be held to a standard of strict scrutiny under the equal protection clause.
- 1995 In *Miller v. Johnson*, race-neutral districting principles (compactness, contiguity, respect for subdivisions or communities defined by actual shared interests) were emphasized.
- 1999 In *Hunt v. Cromartie*, the follow-up case to *Shaw v. Reno*, the Court ruled that North Carolina's 12th District was a constitutional example of political gerrymandering.
- 2004 In *Vieth et al. v. Jubelirer*, a majority of the Supreme Court agreed that some standard for measuring "fairness" might be adopted in a future case, if a manageable rule could be found, laying the ground for *LULAC v. Perry*.
- 2006 In *League of United Latin American Citizens v. Perry*, the U.S. Supreme Court rules that state legislatures may redraw districts as often as they like (not just after the decennial census). Members of the court recognize partisan symmetry as a "helpful tool" for measuring fairness.

Redistricting: A Short Legal History

The word gerrymander was used for the first time in the *Boston Gazette* in March of 1812, in reaction to a redrawing of Massachusetts state senate election districts under Governor Elbridge Gerry. In that year, Governor Gerry signed a bill that redistricted Massachusetts to benefit his Democratic-Republican Party. When mapped, one of the districts in the Boston area was said to resemble the shape of a salamander.

Appearing with the term was a political cartoon (shown in Figure 2.1) depicting an imaginary dragon-like animal satirizing the odd-shaped district. Federalist newspapers editors and others at the time likened the district shape to a salamander; critics of the plan created the word *gerrymander* by blending the word salamander with Governor Gerry's last name.

Gerrymandering should not be confused with malapportionment, whereby the number of eligible voters per elected representative can vary widely without relation to how the boundaries are drawn.

While gerrymandering still poses a challenge to fair elections, malapportionment was ended when equal population requirements were introduced in the 1960s. Altman (1998) points to *Wesberry v Sanders*, 376 U.S.1 (1964) and *Reynolds v. Sims*, 84 S. Ct. 1362 (1964) as seminal cases. In the 1990s, a new set of principles, again laid down by the court, began to address charges of racial gerrymandering in legislative redistricting. These race-neutral districting principles were emphasized in *Miller v. Johnson*, 63 U.S.L.W. 4726 (1995): “compactness, contiguity, respect for subdivisions or communities defined by actual shared interests” (1995).

The Voting Rights Act of 1965: Constraints Matter

After Reconstruction and the granting of citizenship and suffrage to freedmen, state legislatures developed new constitutions with provisions to make voter registration and elections more complicated, such as poll taxes, residency requirements, literacy tests and grandfather clauses. These were designed to,

and effectively succeeded in, disfranchise most African Americans and many poor whites in southern states. In areas where African American and other minorities succeeded in registering, some states created districts that were gerrymandered to reduce the voting impact of minorities.

With the Civil Rights Movement and passage of the Voting Rights Act of 1965, additional federal enforcement and protections of suffrage for all citizens were enacted. Gerrymandering for the purpose of reducing the political influence of a racial or ethnic minority group was prohibited, significantly affecting the outcomes in elections that succeeded the change. Poll taxes for federal elections were prohibited by ratification of the Twenty-fourth Amendment in 1964, and a later Supreme Court case struck down poll taxes as a prerequisite for any election. Gerrymandering for political gain has remained possible under the Constitution.

After the Voting Rights Act of 1965 was passed, some states created "majority-minority" districts. This practice, also called "affirmative gerrymandering", was supposed to redress historic discrimination and ensure that ethnic minorities would gain more seats in government than they otherwise would. Since the 1990s, however, gerrymandering based predominately on racial data has been ruled unconstitutional by the U.S. Supreme Court under the Fourteenth Amendment (unless it survives strict scrutiny), first in *Shaw v. Reno* (1993) and subsequently in *Miller v. Johnson* (1995).

The constitutionality of using racial considerations to create districts remains difficult to assess. In *Hunt v. Cromartie* (1999), the Supreme Court

approved a racially focused gerrymandering of a congressional district on the grounds that the motivation was not pure racial gerrymandering but instead partisan gerrymandering, which is constitutionally permissible. With the increasing racial polarization of parties in the South as conservative whites move from the Democratic to the Republican Party, gerrymandering may be partisan and also achieve goals for ethnic representation.

In some circumstances, the use of goal-driven district boundaries may be used for positive social goals (at least considered so from less partisan viewpoints) such as the representation of communities of interest. For example, when the Arizona state legislature considered representation for Native American reservations following the 1990 census, legislators decided that the two tribes should not share a U.S. House member because of historic conflicts between the Hopi and Navajo nations. Since the Hopi reservation is completely surrounded by the Navajo reservation, the legislature created an unusual district configuration that features a fine filament along a river course several hundred miles in length to attach the Hopi reservation to a white majority district in Western Arizona (Ballotpedia 2012).

In another case (frequently cited as an outrageous example of gerrymandering), the California state legislature created a congressional district that extends over a narrow coastal strip for several hundred miles. It ensures that a common community of interest will be represented, rather than the coastal areas being dominated by inland concerns (Ballotpedia 2012). These cases are illustrative of factoring in communities of common interest in drawing district

boundaries.

Modern Changes to Redistricting

Scholars cite the Supreme Court's decision in *Baker v. Carr*, which legally opened the question of legislative apportionment to judicial review, as the beginning of state legislative reform (Teafor 2002). That case began nearly a decade of conflict and confusion, which lasted through most of the 1960s. The struggle over reapportionment was reignited when the results of the 1970 census forced legislatures to redraw districts based on new population figures. Eventually, reapportionment eliminated the population disparities amongst districts, "forcing a 'one-man, one-vote' standard on recalcitrant state legislatures" (Teafor 2002 p.197).

While the Supreme Court in *Davis v. Bandemer* found partisan gerrymandering to be justiciable, no redistricting plan challenged on those grounds in the subsequent 20 years has been held unconstitutional for that reason. In *Vieth v. Jubelirer* (2004), although the plaintiffs' claims of an unconstitutional partisan gerrymander by the Republican-dominated Pennsylvania legislature were ultimately rejected, two Supreme Court justices, quoting numerous law professors and social scientists expressed grave concern that computers had changed redistricting and removed fundamental constraints against gerrymanders. Five justices concluded that some standard for measuring "fairness" might be adopted in a future case, if a manageable rule could be found. When gerrymandering next came before the Court, in *League of United*

Latin American Citizens v. Perry, King, et al. filed an Amicus Brief (2005), proposing the test be based in part on the partisan symmetry standard. Although the issue was not resolved, justices discussed and positively evaluated the proposal in three of their opinions, including the plurality judgment. For the first time for any proposal for apportionment standards, the Court gave some indication that any future legal test for partisan gerrymandering would likely include partisan symmetry. Following that decision, Grofman and King were optimistic:

“A majority of Justices now appear to endorse the view that the measurement of partisan symmetry may be used in partisan gerrymandering claims as “a helpful (though certainly not talismanic) tool” (Justice Stevens, joined by Justice Breyer), provided one recognizes that “asymmetry alone is not a reliable measure of unconstitutional partisanship” and possibly that the standard would be applied only after at least one election has been held under the redistricting plan at issue (Justice Kennedy, joined by Justices Souter and Ginsburg).”

Kennedy’s concurrence reveals that we are still a long way from a court-adopted empirical standard. In his concurrence, he outlined the potential problems with adopting any strict standard to judge districts before they are put into use: “we are wary of adopting a constitutional standard that invalidates maps based on unfair results that would occur in a hypothetical state of affairs” (*LULAC v. Perry*). He is however, more encouraging about using standards to evaluate districts after an election: “Presumably such a challenge could be litigated if and when the feared

inequality arose (*LULAC v. Perry*).

COMPETITION AND FAIRNESS—IS THERE A RELATIONSHIP?

Elections are the vehicles through which Americans choose who governs them; the power of the ballot, in theory, enables ordinary citizens to hold public officials accountable. Competition is necessary to keep American politics vibrant, responsive, and democratic.

Some scholars, such as Thomas Brunell, have challenged the widely held assumption that the best electoral districts are competitive districts. In his book, *Redistricting and Representation: Why Competitive Elections are Bad for America* (2008), Brunell takes a utilitarian view of elections by arguing that the practice of packing like-minded voters into homogeneous districts actually maximizes voter representation and satisfaction.

Michael P. McDonald and John Samples counter that argument by chronicling many normative arguments favoring electoral competition in their book *The Marketplace of Democracy: Electoral Competition and American Politics* (2006, Ch.1). They name liberty, equality and accountability, community concerns and constitutionality as arguments favorable to increasing competition in U.S. elections.

However, if we consider competition simply a possible outcome of fair elections, both arguments may be irrelevant. In both books, the authors argue for fairness, namely that competitive elections either are or are not “fair”—either in terms of outcome or in terms of procedure. This dissertation will help to clarify the

debate by determining the relationship between procedural fairness and competitive elections.

Competition, at the most basic level, is simply the percentages of partisan victories. It can also be defined as “proportion of success,” “duration of success” and “frequency of divided control” of a legislative body. However, an examination of competition only considers the outcome of an election—not how those outcomes were determined. A state with very “competitive” elections doesn’t guarantee that citizens are fairly represented (in racial, incumbency, or partisan terms)—or even that the elections were conducted in a fair manner.

In my analysis, I will use proportion of success to measure competition—the difference between the winner and the loser in an election. This measure accurately captures the extent to which a real race between candidates exists in a given district.

Ideally, fairness in districting should engender some level of electoral competition. I expect to find significant correlation between partisan symmetry (fairness) and proportion of partisan success (competition). However, fairness is not the only condition that creates competition. Incumbency, legislative professionalism, minority party strength, and legislative performance all affect legislative electoral competition, and I will include them in my analysis.

REFORMING THE REAPPORTIONMENT PROCESS: A LOOK AT INDEPENDENT COMMISSIONS AND THE EFFECTS OF COURTS

In this dissertation, I will examine three redistricting bodies—legislatures,

commissions, and courts.

The first, and most common, way in which districts are drawn is by state legislatures, with approval from governors. In two states, Connecticut and North Carolina, districts are drawn by state legislatures and there is no gubernatorial veto power over redistricting plans.

Many states, in an effort to eliminate self-interested reapportionment plans, use nonpartisan or bipartisan commissions to draw districts. As of 2009, 12 states had redistricting commissions (Alaska, Arizona, Arkansas, Colorado, Hawaii, Idaho, Missouri, Montana, New Jersey, Ohio, Pennsylvania, and Washington). A voter initiative in 2008 made California the 13th state to approve a commission. Others (Connecticut, Illinois, Mississippi, Oklahoma, and Texas) have back-up commissions. Maine and Vermont have advisory commissions.

Idaho uses a bipartisan commission: “The Commission has six members; no member can be an elected or appointed official. Leaders of the two largest parties in the house and the senate appoint one member for a total of four, and the chairpersons of the two parties with the most votes for governor appoint one each” (Center for Voting and Democracy 2012). For example, in Alaska, “A five-member, civilian Redistricting Board draws state legislative districts (there is only one U.S. House district). Two members are appointed to the commission by the governor, two by the legislature, and one by the Chief Justice of Alaska’s highest court. All four regions of the state must be represented on the committee and no state employees or state officials may be commission members” (Center for Voting and Democracy 2012). If all three branches of government are controlled

by the same party, the commission would likely be made up of partisans as well.

In some cases, commissions comprised of members of government without regard to party affiliation. For example, in Ohio's officially nonpartisan commission, three members of the reapportionment board are elected officials. "The board consists of five members; the governor, the secretary of state, the state auditor, one appointee of the speaker and majority leader of the senate jointly, and one appointee chosen jointly by the minority leaders in each house" (Center for Voting and Democracy 2012). In 2001, Republicans held three of the offices in question, thus controlling the board and the redistricting process in that year.

In rare cases, members of the judicial branch of government participate directly in the redistricting process. In Louisiana, for example, "The legislature is responsible for both congressional and legislative redistricting. The house and senate Governmental Affairs committees have jurisdiction. The state Supreme Court will step in" if the legislature has not produced maps by the appointed deadline (Center for Voting and Democracy 2012). In a few states, members of commissions are appointed from amongst current state supreme court justices (Ballotpedia 2012).

In other cases, state courts become involved when individuals or political groups challenge the legislature's decisions regarding redistricting. In most such cases, when the court decides for the plaintiffs, it simply returns the maps to the legislature, with an order to redraw the invalid portions. In rare instances, however, members of the court will participate in the redistricting process

directly—by redrawing the districts themselves. This happened following the 2001 round of redistricting in North Carolina, when Judge Howard Manning redrew maps that had previously been approved by the Democratically controlled legislature. (A full explanation of North Carolina's 2001 redistricting appears in Chapter 5.)

As shown in Table 2.1, state-level general assemblies in the U.S. are governed first by the U.S. Constitution, federal law, then state constitutions, and finally by their own laws and occasionally the courts. In most cases, state constitutions do little in the way of limiting the actions of general assemblies, particularly in regards to their power over elections. In fact, the largest constraint on assemblies' powers to create their own districts comes from the Voting Rights Act (1965). Scholars have identified several incentives that drive reapportionment bodies. David Mayhew (1974) first observed that reelection is the primary goal of all elected officials. In *The Realities of Redistricting*, (2008) Winburn adds that they also have partisan goals.

Thus, legislators have both personal and political incentives to gerrymander. Given these weak guards against assemblies' districting powers, it is no surprise that many state legislatures have been accused of gerrymandering—and that plaintiffs' accusations have been validated by courts.

The court has often been the source of objective criteria for fairness and equal representation in legislative redistricting. The ideas of one-person-one-vote, population equality, contiguity and compactness are amongst the standards most frequently required of legislative districts by constitutional provision and

judicial enforcement. While not all these requirements directly contribute to fairness, limitations on legislators' flexibility (such as contiguity and compactness requirements) can have the effect of making gerrymandering more difficult. Checks on the legislative branch by the judiciary contribute to compact, competitive districts.

The creation of equal population requirements in the 1960s and race-neutral districting principles enforced in the 1990s addressed many of the most egregious malapportionments and racial gerrymanders, respectively.

Despite these strides towards fairer elections, courts aren't the only recourse, and are hampered in significant ways. First, courts are often slow to act. Second, they must rely on an outside party bringing a suit before taking any action. These two qualifications considerably limit the effects courts can have in an overall strategy to limit redistricting abuses. Instead of relying on courts, many reformers suggest changes to the redistricting process itself.

The most commonly advocated electoral reform proposal targeted at gerrymandering is to change the redistricting process. Fairvote.org (2001) identifies six districting principles commonly used: compactness, contiguity, political subdivisions, communities of interest, cores of prior districts, and certain provisions of the Voting Rights Amendment. However, under more recent proposals, a presumably independent and objective commission is created specifically for redistricting, rather than having the legislature do it. This is the system used in the United Kingdom, where the independent Boundary Commission determines the boundaries for constituencies in the House of

Commons and regional legislatures. Adoption of the boundaries is subject to ratification by the body in question, but it is almost always granted without any debate (Johnston 1982).

To help ensure neutrality, members of a redistricting agency may be appointed from relatively apolitical sources such as retired judges or longstanding members of the civil service, possibly with requirements for equal representation among competing political parties. Additionally, members of the board can be denied access to information that might aid in gerrymandering, such as demographic makeup or voting patterns that differ by geography. As a further constraint, consensus requirements can be imposed to ensure that the resulting district map reflects a wider perception of fairness, such as a requirement for a supermajority approval of the commission for any district proposal. Consensus requirements, however, can lead to deadlock, such as occurred in Missouri following the 2000 census. There, the equally numbered partisan appointees were unable to reach consensus in a reasonable time, and consequently the courts had to determine district lines.

Some examples of independent commissions include the standing Washington State Redistricting Commission and the Arizona Independent Redistricting Commission. The Rhode Island Apportionment Commission (from 1990-2011) was *ad hoc* but developed the past two plans after decennial reapportionments (1991, 2001). The Rhode Island General Assembly adopted legislation to establish an 18-person commission to draft and recommend districts to the General Assembly in 2011.

In the state of Iowa, the nonpartisan Legislative Services Bureau (LSB) proposes boundaries of electoral districts. Aside from satisfying federally mandated contiguity and population equality criteria, the Iowa law mandates unity of counties and cities. Under Iowa's legislation, consideration of political factors such as location of incumbents, previous boundary locations, and political party proportions is specifically forbidden. Since Iowa's counties are chiefly rectangles, the LSB process has led to districts that follow county lines (Buck 2008).

In 2005, the state of Ohio had a ballot measure to create an independent commission whose first priority was competitive districts, a sort of "reverse gerrymander". A complex mathematical formula was to be used to determine the competitiveness of a district. The measure failed to obtain voter approval chiefly due to voter concerns that communities of interest would be broken up (Ballotpedia 2012).

The success of the Voting Rights Acts illustrates the effectiveness of constraints on districtors. With the passage of the Voting Rights Act of 1965 additional federal enforcement and protections of suffrage for all citizens were enacted. Gerrymandering for the purpose of reducing the political influence of a racial or ethnic minority group covered by the Act was prohibited, significantly affecting the outcomes in elections that succeeded the change.

This paper will argue that legislative redistricting done by non-legislative actors—commissions and, in two cases, courts—creates more fair (that is, symmetric) districts than redistricting done within the legislature, because

although members of commissions and judges may have partisan incentives to gerrymander, they have no personal incentives in play.

UP NEXT

In the next chapter, I will measure the effects of legislative redistricting on fairness, defined as partisan symmetry. Specifically, I will measure the effects of different systems of apportionment—apportionment by legislators, legislators and governors, judges, and independent commissions—on the fairness (partisan symmetry) of electoral outcomes in state house races in ten states from 2002 to 2008. This analysis shows that both redistricting processes and traditional districting principles positively affect partisan symmetry.

FIGURE 2.1: ELBRIDGE GERRY'S SALAMANDER



TABLE 2.1 STATES' REDISTRICTING METHODS (2000)

State	Redistricting Method: State Assemblies	Term Limits
Alabama	Legislature (gubernatorial veto)	No
Alaska	Commission	No
Arizona	Commission	Yes
Arkansas	Commission	Yes
California	Legislature (gubernatorial veto)	Yes
Colorado	Commission	Yes
Connecticut	Legislature only	No
Delaware	Legislature (gubernatorial veto)	No
Florida	Legislature only	Yes
Georgia	Legislature (gubernatorial veto)	No
Hawaii	Commission	No
Idaho	Commission	Repealed
Illinois	Legislature (gubernatorial veto)	No
Indiana	Legislature (gubernatorial veto)	No
Iowa	Commission, Legislature, and Governor	Yes
Kansas	Legislature (gubernatorial veto)	No
Kentucky	Legislature (gubernatorial veto)	No
Louisiana	Legislature, State Supreme Court (Gubernatorial veto)	Yes
Maine	Commission, Legislature, and Governor	Yes
Maryland	Legislature (Governor as back-up)	No
Massachusetts	Legislature (gubernatorial veto)	Repealed
Michigan	Legislature (gubernatorial veto)	Yes
Minnesota	Legislature and Commission (gubernatorial veto)	No
Mississippi	Legislature only (Commission as back-up)	No
Missouri	Legislative Commission	Yes
Montana	Commission	Yes
Nebraska	Legislature (gubernatorial veto)	Yes
Nevada	Legislature (gubernatorial veto)	Yes
New Hampshire	Legislature (gubernatorial veto)	No
New Jersey	Commission	No
New Mexico	Legislature (gubernatorial veto)	No
New York	Legislature (gubernatorial veto)	No
North Carolina	Legislature only	No
North Dakota	Legislature (gubernatorial veto)	Yes
Ohio	Commission	No
Oklahoma	Legislature (gubernatorial veto)	Yes
Oregon	Legislature (gubernatorial veto)	Repealed
Pennsylvania	Commission	No
Rhode Island	Legislature (gubernatorial veto)	No
South Carolina	Legislature (gubernatorial veto)	No
South Dakota	Legislature (gubernatorial veto)	No
Tennessee	Legislature (gubernatorial veto)	No
Texas	Legislature (gubernatorial veto)	No
Utah	Legislature (gubernatorial veto)	Repealed
Vermont	Legislature and Commission (gubernatorial veto)	No
Virginia	Legislature (gubernatorial veto)	No
Washington	Commission	Repealed
West Virginia	Legislature (gubernatorial veto)	Repealed
Wisconsin	Legislature (gubernatorial veto)	No
Wyoming	Legislature (gubernatorial veto)	No

Source: Ballotpedia 2012

CHAPTER THREE: REDISTRICTING AND PARTISAN SYMMETRY

In chapter one, I outlined three cases where individuals involved in drawing legislative or congressional districts stood to personally benefit from the maps that were eventually adopted and the resulting electoral outcomes. These cases were not exceptional; in states where legislatures draw legislative maps, legislators and their parties benefiting directly from the outcome of redistricting is ubiquitous. Gerrymandering—or accusations of gerrymandering—is commonplace.

Two insights from public choice theory explain this phenomenon. The assumption that “all individuals, be they voters, politicians, or bureaucrats, are motivated more by self-interest than by public interest” calls into question legislators’ motivations when drawing electoral maps (Shughart 2008). Black’s findings that different systems of voting will yield different results in partisan terms (1958) give legislators the opportunity to indulge their personal and partisan motivations when drawing districts. Thus, we should expect self-interest to drive the reapportionment process. Although commissions, judges, and members of a council of state can all be assumed to have partisan preferences—and thus a reason to engage in some level of self-interested gerrymandering—they have no immediate personal stake in electoral outcomes at the district level.

In this chapter, I address the question: Can non-partisan commissions make district-level elections fairer? I expect elections will be fairer if the districts are drawn by non-legislative bodies, which have no personal stake in election outcomes, rather than legislators themselves, who are personally invested in the effects of redistricting. To test that hypothesis, I will look at the effects of districting practices on fairness—defined, in this work as partisan symmetry—by applying this concept at the district level. I will also consider the effects of legal constraints on districtors, including the Voting Rights Act, traditional districting principles, and judicial challenges.

MEASURING ELECTORAL FAIRNESS

Apportionment is a fundamentally important question for social scientists. But, a full account of the literature on apportionment and fairness requires an examination of several disciplines—from legal theory to political science. Given the complexity of the process, there are many ways to study redistricting. Various authors have studied the history of apportionment between the states (Balinski and Young 1982; McKay 1965; Schmeckebier 1941) and the relationship between legislative seats and citizen votes (Dahl 1956, 147-49; Farrand 1911; Locke 1965, 419-20; Rae 1967; Schattschneider 1942). Others have shown that changing patterns of partisanship have created opportunities for self-interested state legislatures to alter seats-votes relationships via gerrymandered congressional districts (Cain 1985; Grofman et al. 1982; Polsby 1971). Over the last 100 years, political scientists, economists, sociologists,

and mathematicians have studied these questions and attempted to create empirical estimates of bias and unfairness (Hay and Rumley 1984; Kendall and Stuart 1950; March 1957-58; Theil 1970; Tufte 1973). Scholars have examined redistricting's link to the decline in the number of competitive seats in Congress and its effect on partisan balance in the House of Representatives. Some, like Mayhew (1971) and Tufte (1973), argued that the reapportionment cases contributed to the incumbency advantage and the vanishing of marginal districts. Others point out that merely reflecting underlying voter preferences—either directly or indirectly—is not enough for a system of representation to be fair and meaningful (Pitkin 1967, King and Ragsdale 1987). These observations paved the way to measuring winner-take-all systems with a new standard of fairness: partisan symmetry.

Court challenges to political gerrymandering in the early 1980s rekindled interest in the relationship between seats and votes. However, little work has been done on apportionment within states—and work has only just begun on measuring partisan symmetry in state legislatures. Research on apportionment within the states is limited to isolated states and periods (Pildes and Niemi 1993; Dixon 1968; Schmeckebier 1941). Previous analyses on the partisan effects of redistricting by legislatures (see e.g. Abramowitz 1983 and Niemi and Winsky 1992) focus on congressional rather than state house or senate districts, treating partisan balance as the only available measure of “fairness” (see also Born 1985). Altman fills some of the gaps in his study of traditional districting principles (1998).

Bushman and Stanley (1971) found that malapportionment within states was largely reduced as a result of federal court actions during the 1960s, beginning with *Baker vs. Carr* (1962) and running through *Reynolds v. Sims* (1964). Cox (2004) points out that early studies of one-person, one-vote cases found few systematic policy effects. Cox and Katz (2002) argue that one-person, one-vote cases helped reduce the Republican bias in non-Southern congressional elections that existed into the 1960s.

Other early work predicted both increased electoral competition (Jewell 1969) and a shift in partisan balance in state legislatures (Hamilton 1967). The first study to address the partisan impact of reapportionment in state legislatures, which found that reapportionment usually helped Democrats (Erikson 1971) used data from congressional elections due to a lack of state data. Copeland and McDonald considered partisanship and redistricting in their 1987 study of reapportionment of state legislative races in Oklahoma. Among other hypotheses, they tested the theory that the impact of reapportionment should be more evident when it is developed in a primarily non-political manner. They found, not surprisingly, that gerrymandering and the political nature of the process, particularly prior to 1960, dominated the effects of the reapportionment in Oklahoma.

In contrast, Gelman and King (1990) have found surprising benefits of legislative redistricting for American representative democracy, even if it results in partisan gerrymandering. Specifically, they found that redistricting increases responsiveness. They also confirmed that gerrymandering biases electoral

systems in favor of the party that controls the redistricting as compared to what would have happened if the other party controlled it, but any type of redistricting increases partisan symmetry as compared to an electoral system without redistricting.

Scholars and journalists alike have pointed with alarm at computer programs that “can generate maps custom-fitted to meet any group's needs” (Buchman 2003, 119) allow mappers to “to specify a desired outcome... and have the program design a potential new district instantly” (Peck and Caitlin 2004, page 50), or simply to “preordain” elections (Fund 2003). Legal scholars such as Pildes (1997), Karlan (1998), and Issacharoff (2002), worry about the astonishing precision of technology, which has led to increasingly sophisticated gerrymanders, causing incumbent entrenchment. Some observers claim that computers have qualitatively changed the redistricting process. Altman, MacDonald, and McDonald (2005) analyzed the capabilities of redistricting software systems to develop a systematic qualitative and quantitative assessment of the nature and extent of the use of computer technology in redistricting. That research failed to uncover evidence that redistricting following the 2000 census was affected to any significant extent by “pushbutton” redistricting. They found, instead, “Current automated algorithms cannot simultaneously balance the multiple criteria that must be respected when drawing districts” (2005 p. 10).

New technology has also produced unprecedented transparency in the redistricting process; under the direction of scholars at the Brookings Institution

and the American Enterprise Institute, and with consultation from an array of experts in redistricting issues, Michael McDonald and Micah Altman developed a set of principles for transparency and public participation. These principles have been endorsed by an array of stakeholders, including Common Cause and the League of Women Voters of the United States. They transformed these principles into the Public Mapping Project. Using this tool, citizens can create their own redistricting plans to be compared with the politician-drawn maps.

This evolution of measurement techniques parallels the development of our understanding electoral fairness. Increasing transparency in many states makes it possible to use these new techniques to accurately measure electoral outcomes for the past decade.

CASE SELECTION

States were chosen to maximize variation within several relevant categories—districting method; region, history, and culture; and whether the states in question were subject Section 5 of the 1965 Voting Rights Act.

States with rules and practices that make measuring the effects of apportionment rules impossible were eliminated. Because term limits make the analysis of longitudinal data extremely difficult, no states employing them between 2000 and 2008 are used in the study. This leaves 33 states from which to choose.

Multi-member districts were also eliminated. Although it is possible to measure partisan symmetry in states that use multi-member districts, their

inclusion would introduce complications, particularly in the upcoming analysis of competition (Chapter 4). Most of the states chosen for the analysis do not use multi-member districts. North Carolina ended the practice of using multi-member districts in 2002. For the 2000 election data, I simply eliminated the 17 districts electing multiple legislators. Washington and New Jersey both use multi-member districts for state house elections, with each district electing two state house members and one state senator. For those states, I used state senate elections data.

I also chose states in order to represent the widest variety of apportionment methods: Legislative apportionment by state legislature (with or without gubernatorial veto); apportionment by bipartisan redistricting commission; and hybrid models, epitomized by Iowa's method (explained below). This work also looks at several instances wherein the usual apportionment methods were challenged. In those cases, final apportionment decisions were made, or approved, by courts or secretaries of state.

The states are grouped in terms of region, history, and Elazar's political culture: Mississippi, Alabama, and North Carolina, Washington and Oregon, Iowa and Indiana, New York, New Jersey, and Rhode Island. When possible, one state's reapportionment is directed by a commission and one state's by the legislature in each set. In the Midwest set, Iowa is included, although it uses a hybrid system rather than a commission. In that part of the country, no state exists that uses a commission, but does not have term limits.

Washington has a bipartisan redistricting commission with four of the commissioners chosen by the legislature, while Oregon's districts are usually drawn by the legislature with the Secretary of State serving as a back-up. After both the 1990 and 2000 census, Oregon legislators were unable to agree on redistricting plans; thus, the plans used in this study were drawn by the Secretary of State.

In Indiana, all districts in all years were drawn by the legislature, with no court challenges; Iowa uses a hybrid commission and legislative method. In Iowa, the nonpartisan Legislative Services Bureau has initial responsibility for drawing apportionment plans. It must develop up to three plans that can be accepted or rejected by the legislature. Although the legislature has final responsibility for enacting a redistricting plan, they cannot alter plans—but they can send them back to the Legislative Services Bureau for alteration.

In the Northeast/MidAtlantic, I have chosen three states: New Jersey, New York, and Rhode Island. The New York legislature is responsible for redistricting, while New Jersey's reapportionment is handled by a bipartisan commission. In Rhode Island, the legislature is responsible for drawing redistricting maps. During the last round of redistricting (2000), the legislature appointed a redistricting commission consisting of house and senate members as well as civilian members. However, until legislation was passed in 2011, such a path was not required by law. Moreover, the commission merely recommends plans to the legislature, which may adopt, modify, or ignore the commission's proposals. The governor has veto power over congressional and legislative redistricting plans.

States in the south were particularly difficult to choose; the only Southern state with a commission (Arkansas) also has term limits. Therefore, I have chosen three states to address all variables: a commission, court case, and legislative districts. North Carolina has used districts drawn by Johnston County Superior Court Judge Knox Jenkins after a case alleging gerrymandering was remanded back to him from the North Carolina Supreme Court. The following year, Jenkins' districts were redrawn by the legislature. Mississippi's districts are drawn by a special redistricting commission—but only when the legislature fails to deliver maps by the redistricting deadline. During the period of this study, Mississippi's districts were drawn by the Mississippi legislature. Alabama's districts were challenged in court. In all cases where there was a court challenge, none were brought on the basis of VRA violations.

[INSERT TABLE 3.1 HERE]

States also vary by traditional districting principles such as contiguity, compactness, preservation of district cores, preservation of communities of interest, preservation of political subdivisions, and protection of incumbents. These principles are required either by state legislation or state constitutions.

[INSERT TABLE 3.2 HERE]

Section 5 of the Act requires that the United States Department of Justice, through an administrative procedure, or a three-judge panel of the United States District Court for the District of Columbia through a declaratory judgment action "preclear" any attempt to change "any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting..." in any "covered jurisdiction." (U.S. Department of Justice.)

Four of the states in this analysis are subject, at least partially, to preclearance. Every district in Alabama and Mississippi must be precleared by the justice department. Forty counties³ in North Carolina and three counties⁴ in New York must be precleared.

Data on districts and elections are available from each state's state board of elections.

DATA AND MEASUREMENT

I expect that legislative redistricting will yield maps with a lower degree of partisan symmetry than will districts drawn by non-legislative bodies. In order to test that hypothesis, I measure partisan symmetry and model the relationship between redistricting method, traditional districting principles, judicial challenges, and partisan symmetry.

Estimating Partisan Symmetry

Prior to the development of new modeling techniques, the concepts and measurements of bias and representation had often been conflated. King and Browning (1987) were the first to separate these two important concepts empirically in their general statistical model of votes and seats. Crucially, this work led to the development by Gelman and King (1994a) of the *Judgelt* software

³ Anson, Beaufort, Bertie, Bladen, Camden, Caswell, Chowan, Cleveland, Craven, Cumberland, Edgecombe, Franklin, Gaston, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Jackson, Lee, Lenoir, Martin, Nash, Northampton, Onslow, Pasquotank, Perquimans, Person, Pitt, Robeson, Rockingham, Scotland, Union, Vance, Washington, Wayne, Wilson

⁴ Bronx, Kings (Brooklyn), New York (Manhattan)

program: a method for assessing partisan symmetry (lack of bias) by isolating the systematic error created by districting systems.

Gelman and King's introduction of a new model for evaluating electoral systems and redistricting plans allowed them to estimate the partisan symmetry and electoral responsiveness of the U.S. House of Representatives since 1900 and to evaluate the fairness of competing redistricting plans for the 1992 Ohio state legislature—finding, in that case, that reapportionment maps drawn by a non-partisan commission has a lesser degree of partisan bias than suggested maps drawn by both Republican and Democratic members of the legislature (Gelman and King 1994a).

Gelman and King's *Judgelt* theoretical model is used to describe electoral systems featuring contests between two parties—in this case Democrats and Republicans. I will use the measure of partisan symmetry calculated by Judgelt as the dependent variable in my analysis.

Where Party 1 is Democrats, in any particular election year, v_i is the share of the two-party vote received by a Democratic candidate in district i . The resulting vote share, in its simplest form, is modeled as:

$$v_i = X_i'\beta + \eta_i + \epsilon_i$$

where X_i' is a vector of predictor variables with coefficient β , and $\eta_i \sim N(0, \lambda\sigma^2)$ and $\epsilon_i \sim N(0, (1-\lambda)\sigma^2)$ are the systematic and random error terms. In this case, σ^2 is the total error variance, and λ is the share attributed to the systematic error component (the portion of an election's variation caused by properties of

the electoral system.) The error terms in each district are independent of each other and of those in each other district in the system.

From this, the distribution of partisan symmetry can be estimated conditional on β and λ . Those distributions can then be used to determine a probability interval.

To get one draw from the distribution of partisan bias, the *Judgelt* software draws β and λ from their respective distributions. These represent conditions in the electoral system up until the election. It then calculates the mean and variance of the vote share in each district conditional on the draws β and λ . Next, it calculates the grand mean vote and subtracts it from 0.5; this is the value of δ used to adjust the mean vote to 0.5. *Judgelt* then determines the expected seat share $P(v_i > 0.5 | \beta, \gamma, \delta)$ for each district and takes the weighted mean. Twice the |weighted mean minus 0.5| is the partisan bias conditional on β and λ . Repeating

- this procedure yields the distribution of the partisan bias. High scores indicate low levels of partisan symmetry (high levels of partisan bias). A score of zero indicates a perfectly symmetric system. Partisan symmetry scores are presented in Table 3.3.

[INSERT TABLE 3.3 HERE]

A similar district-level measurement, simply of symmetry, would be meaningless; it would lack the context that can only be provided by looking at a state as a whole. For example, North Carolina's 1st Congressional district, if measured on its own, would look like a Democratic gerrymander, since any Democratic candidate running in the first is almost certain to win. However, when

seen in context, it's clear that the district was intentionally packed with Democratic voters in order to make surrounding districts safe for Republicans—in other words, a Republican gerrymander.

In order to address this conundrum, I modify the state partisan symmetry score to allow for district-level variations. This variable is created by varying the state-level partisan bias measure by the variance from that mean in each district—represented here by calculating the difference between observed and expected vote totals in each district—where 0 indicates no partisan bias and 1 indicates complete partisan bias. The result is a variable that captures both state-level and district-level variance in partisan symmetry. (Separating the two sources of variance into two different dependent variables would make it impossible to include all the possible sources of variance in one model. Population changes, for example, must be measured at the district level, while districting method and traditional districting principles must necessarily be state-level variables. Moreover, variance from the mean only has context within a state—not between states.)

In other words, the partisan bias variable is essentially a state-level measurement created by pooling district-level data into election series for each state, then modified by district. In my analysis, democratic party vote share and three other variables are included in order to get the most accurate measure of partisan bias.

Lewis-Beck and Rice (1992) as well as Gelman and King (1994) provide the justification for the choice of explanatory variables. The presence of an open

seat is important because uncontested elections do not fit linear models unless explicitly controlled for. (Moreover, *Judgelt* will not produce accurate measurements unless elections are controlled for contestedness.) An incumbency status variable is important in order to account for incumbency advantage; without such an indicator, election results will not fit the assumptions of a linear model with independent error terms. Including the incumbency variable also usually improves the predictive power of the model. As discussed in Gelman and King (1994a), it is also useful to note the party of each incumbent.

DEMVote	A district-level variable equaling the percentage of the vote earned by the Democratic candidate [0-1]
INC	A district-level variable denoting the party of the incumbent in each district [1=Democrat, 0=No incumbent, -1=Republican]
CONTEST	A district-level variable denoting whether the race is contested [1=Democratic Candidate Only, 0=Contested Election, -1=Republican Candidate Only]
TURNOUT	A district-level variable equaling the total number of votes earned by both the Democrat the Republican in each race.

Additionally, the *Judgelt* estimation of partisan symmetry includes the percentage of the vote earned by the Democratic candidate in the previous election (for any year not immediately following reapportionment.) In most states, this means that years 2000 and 2002 stand alone while years 2004-2008 include data from previous years.

Redistricting Methods and Partisan Symmetry at the State Level

In order to provide an adequate picture of partisan symmetry, it's necessary to look at both the state and district levels. Although the data are

inadequate to perform a state-level analysis that accounts for special correlation, an examination of summary statistics reveals a clear relationship between redistricting method and partisan bias. As Table 3.4 shows, the mean partisan symmetry score for states using legislative redistricting is .1228. The mean partisan symmetry score for states using non-legislative redistricting is .0399. (A higher score indicates less symmetry/more bias.) A t-test confirms that there is a significant difference between these two scores.

[INSERT TABLE 3.4 HERE]

Further separating the data reveals an obvious pattern: states that use methods further removed from legislative and partisan concerns are more likely to have a high degree of partisan symmetry. Figure 3.1 shows partisan symmetry scores of all 41 states/years. Districts drawn by legislators, in general, have a lower degree of partisan symmetry than those drawn by commissions, members of the council of state, or judges.

[INSERT FIGURE 3.1 HERE]

Before Gelman and King developed a model of partisan symmetry, seats-votes curves were the standard method of evaluating the fairness of electoral systems. This standard measurement for comparing proportional systems of voting to plurality systems can be summarized by looking at the difference between seats won and votes won in a given state. If the difference is high, the system is not very proportional. Figure 3.2 shows three states: one with a low degree of partisan symmetry, one with some partisan symmetry, and one that is almost perfectly symmetric. (Graphs of systems in which there is a proportional

relationship between seats and votes will show the curve traveling through the origin of the graph.) The measurements of symmetry correspond relatively well to seats-votes curves. Symmetric systems translate (in most cases) to a very close relationship between votes and seats.

However this does not always mean that a low degree of partisan symmetry exists in reality. In Rhode Island, for example, even a symmetric apportionment plan would yield a large difference between votes and seats won in the legislature. This is because of the demographic patterns in Rhode Island—Democrats and Republicans are spread more-or-less uniformly across the state. In New York, on the other hand, where Democrats are concentrated near New York City and Republicans largely live upstate, a low degree of partisan symmetry yields a smaller difference in the seats-votes curve.

As individuals have chosen to live in increasingly homogenous communities over the past three decades (Bishop 2008), the New York demographic model has become much more prevalent than that of Rhode Island. Bishop found that the number of counties in which the presidential election was competitive fell significantly from 1976 to 2008. These changing demographic patterns mean that the relationship between seats, votes, and partisan symmetry has become stronger over time—but also makes drawing asymmetric electoral districts much easier, creating more barriers to competitive elections.

[INSERT FIGURE 3.2 HERE]

Three seats-votes plots generated by *Judgelt* illustrate the relationship. In Rhode Island in 2000, a state that leaves redistricting to legislators, the

difference between seats won and votes won is high. Although Democrats won approximately 68 percent of the vote, they received 85 percent of the seats in the state house of representatives. This corresponds to a high partisan symmetry score (.258). In Alabama, in which the legislature also draws the districts, the difference in seats and votes is smaller, as is the partisan symmetry score (.099). Democrats won approximately 53 percent of the vote and 58 percent of the seats in the state house of representatives. In Iowa, in which districts are created using a hybrid system, Democrats won approximately 53 percent of the votes and 55 percent of the seats and scored .004 on partisan symmetry.

Redistricting Methods and Partisan Bias at the District Level

I expect to find that redistricting methods further removed from the legislature will produce more partisan symmetry than methods relying solely on legislative redistricting. I also expect that successful court challenges to redistricting plans will increase partisan symmetry.

To test these hypotheses, I will model the relationship between partisan symmetry and redistricting methods at the district level. I will use a multi-level model with random effects for states (all variables are standardized):

$$\text{BIAS} = \text{DISTMETH} + \text{TDP} + \text{COURT} + \text{POPDEV} + \text{VRA} + \text{TRAD} + \text{INDIV} + \text{OPENSEAT} + \text{INC}$$

DISTMETH Redistricting Method. This variable will be defined by the body that reapportions legislative seats—legislative or non-legislative.

[0=non-legislative, 1=legislative.]

TDP Traditional Districting Principles. A state-level variable denoting the number of additional constraints on drawing districts, including contiguity, compactness, etc. (See Table 3.2) [1-5]

COURT	Presence of a court challenge. A state-level variable indicating the influence of the court in a given election—including presence of a court challenge and success of the challenge. [0-2]
POPDEV	Population Deviation. A district-level variable describing the degree by which a single district's population varies from the ideal population—relative to other districts in the state. Ideal district size for the state house of representatives, for example, is determined by dividing the total state population by the number of members in either the that chamber. A score of 0 means no variation from the ideal. A score of 1 means 100 percent variation from the ideal. In light of Bishop's (2008) findings, this variable could capture changing population trends.
INC	Incumbency. A district-level variable denoting whether there is an incumbent running in the district. [0 = no incumbent, 1 = incumbent]
OPENSEAT	Contested Election. A district-level variable denoting whether a seat is contested, i.e. is there a candidate from each major party running for the seat. [0 = contested, 1 = open seat]
TRAD	State-level dummy indicating traditional political culture.
INDIV	State-level dummy indicating individual political culture.
PRESUM	A dummy variable indicating a presidential election year.
VRA	Voting Rights Act. A district-level variable indicating districts that are covered under Section 5 of the VRA. Section 5 of the Act requires that the United States Department of Justice, through an administrative procedure, or a three-judge panel of the United States District Court for the District of Columbia, through a declaratory judgment action "preclear" any attempt to change "any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting..." in any "covered jurisdiction." (U.S. Department of Justice.)

RESULTS

District-level analysis using a random effects model and a clustered robust standard errors model shows that, consistent with my hypotheses, redistricting method and involvement of the courts are important factors in explaining partisan

bias. Based on AIC scores, the random effects model (AIC: 7915.78) better fits the data than does the clustered robust standard errors model (AIC: 6048.49).

Both models are good fits for the data, but show slightly different results.

[INSERT TABLE 3.5 HERE]

The variables that contribute most to partisan symmetry are measures of *inputs* into the creation of reapportionment maps. With the exception of population deviation and subsequent demographic changes, nothing that happens after maps are finalized, other than a legal challenge, can alter the partisan bias of a district—including usually powerful variables such as incumbency and whether a seat is contested.

Redistricting method, with a coefficient of .2194 in the random effects model and .5520 in the clustered robust standard errors model, is a significant explanatory variable. The magnitude of this coefficient means that moving from a legislative to a commission system changes the amount of partisan symmetry considerably—almost from one endpoint of the observed range to the other. In the first model, it is significant at the .01 level; while in the second model, it is significant at the .05 level. These statistics are strong evidence that redistricting method contributes meaningfully to partisan symmetry.

The random effects model shows population deviation, with a coefficient of .0199, as having a significant, but small, effect on partisan symmetry. Essentially, population variation only affects partisan symmetry at the margin. As population varies more from the ideal district size, districts become less symmetric. In the clustered robust standard errors model, population deviation is not significant.

Two state-level variables are also significant in the clustered robust standard errors model. One political culture variable is also significant; the clustered robust standard errors model shows that in states with a Traditional political culture, there is more partisan symmetry in redistricting maps—possibly because all of the states in this analysis with Traditional political culture are located in the South, where Section 5 of the Voting Rights Act applies. The coefficient on traditional political culture is $-.3201$. The variable is significant at the $.05$ level. The Voting Rights Act is also significant at the $.05$ level with a coefficient of $.0985$. Viewed together, these variables could be interpreted to mean that the imposed constraints of the Voting Rights Act improve symmetry overall, but negatively affect the particular districts to which they are applied (majority-minority districts). Neither variable is significant in the random effects model.

Other variables—including traditional districting principles, whether it's a presidential election year, incumbency, and whether an election is contested—are not significant. Given Micah Altman's findings (1998) that violations of traditional districting principles are politically harmless and Engstrom's assertion (2009) that traditional districting principles are largely unenforced, it's not surprising that districting principles exert no influence over partisan symmetry when considered in the same model with redistricting method. The lack of significance of contestation, incumbency, and presidential election years shows that redistricting method and other inputs to the redistricting process are robust even in the face of usually powerful control variables.

DISCUSSION

These findings are consistent with the literature and with my expectations. My results help to identify the effects of legislators' strong personal interest in reelection. They also establish a relationship between redistricting and partisan symmetry, which was first suggested by Gelman and King (1994).

Individual legislators acting in pursuit of personal goals prefer districts that are extremely safe and, in general, comprised of the same constituents from year to year (Schaffner, Wagner, and Winburn 2004). These preferences give legislators strong incentives to gerrymander, motivations that are not present for commissioners, judges, or members of council of state. Those powerful incentives led me to expect a significant relationship between legislative involvement in the redistricting process and partisan symmetry. My results justify those expectations.

My results confirm the relationship between redistricting and partisan symmetry that Gelman and King first observed in their evaluation of competing redistricting plans for the 1992 Ohio legislature: that reapportionment maps drawn by commission have a higher degree of partisan symmetry than proposed maps drawn by members of the legislature (1994). My research extends their work by looking at redistricting across 10 states and multiple elections.

UP NEXT

In the next chapter, I will look at the effects of partisan symmetry on competitiveness at the district level. I expect that partisan bias is an important

contributing factor to competitive elections, but not absolutely necessary for competition to exist.

Table 3.1: States Included in District-Level Partisan Symmetry Analysis

State	Years	Redistricting Method	Court Challenge	Voting Rights Act	Region	Political Culture
Alabama	2002 2006	Legislature (gubernatorial veto)	Yes	Yes	South	Traditionalistic
Indiana	2002 2004 2006 2008	Legislature (gubernatorial veto)	No	No	Midlands	Individualistic
Iowa	2000 2002 2004 2006 2008	Hybrid	No	No	Midlands	Moralistic
Mississippi	2003 2007	Legislature (No veto, Commission as back-up)	No	Yes	South	Traditionalistic
New Jersey	2001 2003 2007	Commission	No	No	MidAtlantic	Individualistic
New York	2000 2002 2004 2006 2008	Legislature (gubernatorial veto)	No	5 Counties	MidAtlantic	Individualistic
North Carolina	2000 2002 2004 2006 2008	Legislature (no gubernatorial veto)	Yes	40 Counties	South	Traditionalistic
Oregon	2000 2002 2004 2006 2008	Legislature (Secretary of State as back-up)	No	No	Northwest	Moralistic
Rhode Island	2000 2002 2004 2006 2008	Legislature (gubernatorial veto)	No	No	Northeast	Individualistic
Washington	2000 2002 2004 2006 2008	Commission	No	No	Northwest	Moralistic

Source: United States Department of Justice (2012, Elazar (1972))

Table 3.2: Traditional Districting Principles

	Compactness	Contiguity	Political Subdivisions	Communities of Interest	District Cores	Protect Incumbents
Alabama	✓	✓	✓	✓	✓	
Indiana		✓				
Iowa	✓	✓	✓			⊘
Mississippi	✓	✓	✓			
New Jersey	✓	✓	✓			
New York	✓	✓	✓			
North Carolina		✓	✓	▶		
Oregon		✓	✓	✓		⊘
Rhode Island	✓					
Washington	✓	✓	✓	✓		⊘
<div> <div>✓ Required</div> <div>⊘ Prohibited</div> <div>▶ Required since 2002</div> </div>						

Table 3.3: Partisan Symmetry at the State Level

State	Year	Partisan Symmetry
AL	2002	0.113
AL	2006	0.099
IA	2000	0.086
IA	2002	0.016
IA	2004	0.059
IA	2006	0.004
IA	2008	0.023
IN	2002	0.047
IN	2004	0.024
IN	2006	0.005
IN	2008	0.029
MS	2003	0.102
MS	2007	0.119
NC	2000	0.029
NC	2002	0.008
NC	2004	0.012
NC	2006	0.056
NC	2008	0.079
NJ	2001	0.077
NJ	2003	0.014
NJ	2007	0.02
NY	2000	0.188
NY	2002	0.185
NY	2004	0.168
NY	2006	0.172
NY	2008	0.222
OR	2000	0.054
OR	2002	0.106
OR	2004	0.085
OR	2006	0.048
OR	2008	0.02
RI	2000	0.258
RI	2002	0.226
RI	2004	0.162
RI	2006	0.257
RI	2008	0.15
WA	2000	0.017
WA	2002	0.039
WA	2004	0.13
WA	2006	0.021
WA	2008	0.062

Table 3.4: Summary Statistics on Partisan Bias, State-Level Data

	Legislative Redistricting	Non-legislative Redistricting
Mean	0.1228	0.0399
Std. Dev.	0.0811	0.0326
Min	0.005	0.004
Max	0.258	0.086
N	22	17

Note: A difference of means test confirms that these scores are significantly different.

Figure 3.1: State-Level Partisan Bias and Redistricting Methods

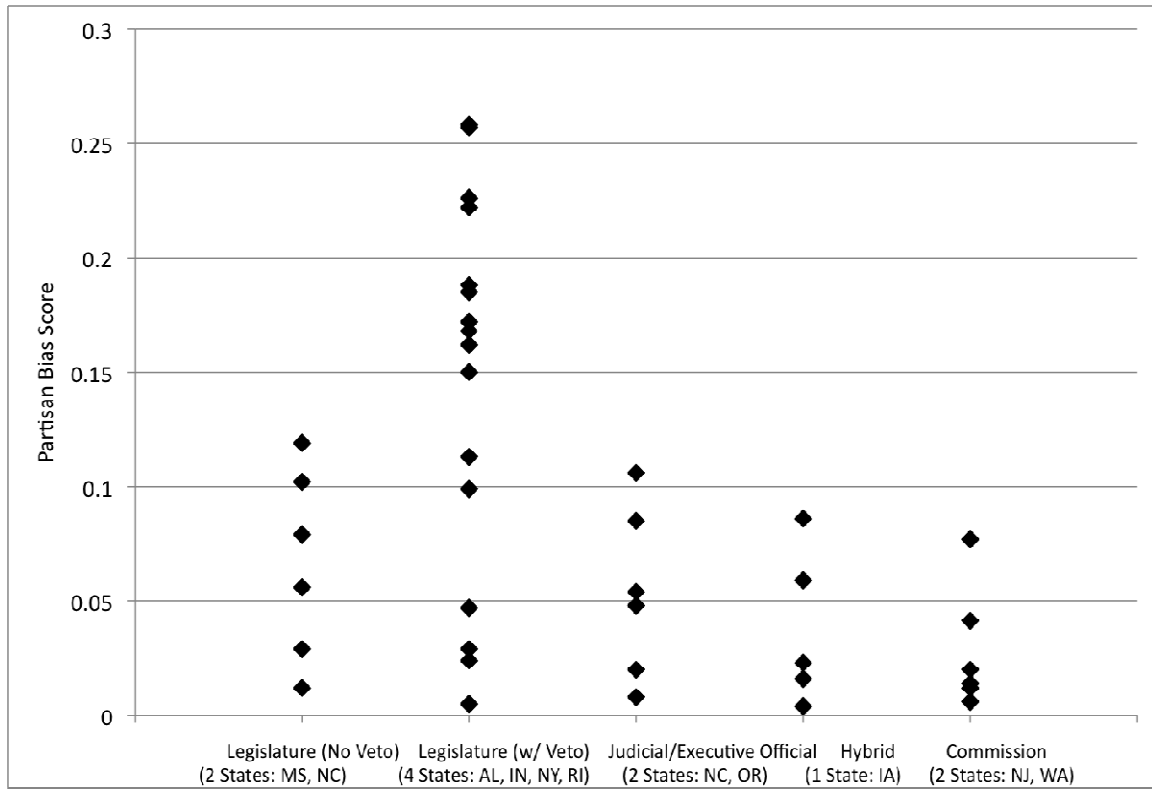


Figure 3.2: Seats-Votes Curves

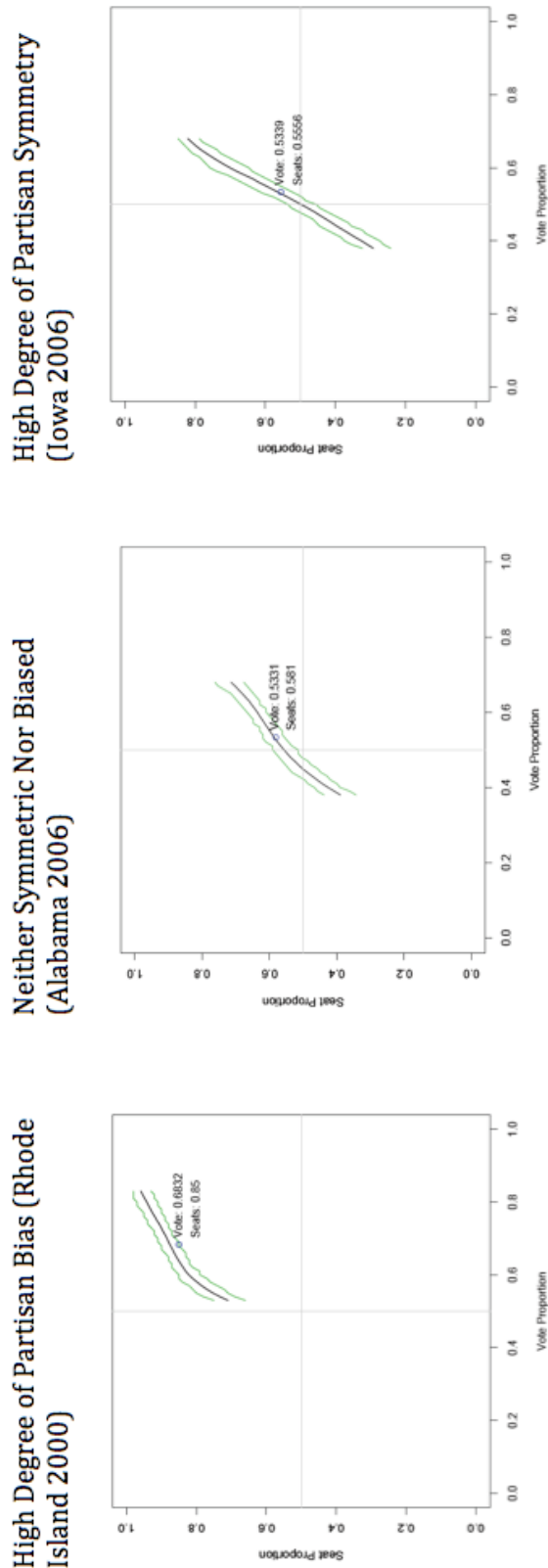


Table 3.5: Partisan Symmetry as a Function of Redistricting Method, Traditional Districting Principles, and Influence of the Courts

Parameter	Random Effects Model	Clustered Robust Standard Errors
Constant	-.0324 (.1905)	-.0089 (.2300)
DISTMETH	.2194*** (.0294)	.5520** (.1911)
COURT	.0691*** (.0242)	-.0291 (.0473)
TDP	.1569 (.2462)	.3941 (.2940)
VRA	.0155 (.0149)	.0985** (.0404)
POPDEV	.0199* (.0112)	-.0734 (.0531)
Political Culture		
TRAD	.1320 (.1749)	-.3201* (.1717)
INDIV	.4381 (.2954)	.2591 (.2155)
INC	.0102 (.0100)	-.0023 (.0081)
OPENSEAT	.0020 (.0102)	.0294 (.0155)
PRESUM	-.005 (.006)	.004 (.051)
r-squared		.4204
chi-squared	75.22	
N = 3443		

Standard errors in parentheses. * significant at .1 level, ** significant at .05 level, ***significant at .01 level

CHAPTER FOUR: PARTISAN SYMMETRY AND COMPETITION

Despite the importance of fairness in electoral processes, most political actors, constituents, and even pundits don't think in these terms, but in terms of electoral winners and losers. Moreover, for democratic elections to perform their intended function—providing citizens with accurate representation—fairness alone is insufficient. Meaningful electoral competition is the intervening step between a fair electoral process and representative outcomes. (Although it is theoretically possible for a large degree of both partisan symmetry and competition to result in a very weak relationship between seats and votes, in reality this does not happen.)

Competition is necessary to keep American politics vibrant, responsive, and democratic. The legislative branch of government was designed by the Federalists in 1787 to be responsive and accountable; yet for many in North Carolina and around the country it is becoming stagnant and immune to constituents' concerns.

McDonald and Samples chronicled many normative arguments favoring electoral competition in their book *The Marketplace of Democracy: Electoral Competition and American Politics* (2006 Ch.1). They name liberty, equality and accountability, community concerns and constitutionality as arguments favorable to increasing competition in U.S. elections.

In this chapter, I'll examine the effect of fairness—defined here as partisan symmetry—on electoral competition at the district level. Although other variables may be more proximate causes of competition, I expect that partisan symmetry helps to create an environment conducive to competition.

REDISTRICTING AND COMPETITION

Scholars have documented the relationship between redistricting and competition over the past several decades. Cain (1985) considered the differences among various districting methods, focusing on two types of districting plans: partisan and bipartisan. Partisan plans attempt to deprive the minority party of as many seats as possible, while bipartisan plans (passed through a typical legislative process) are drawn to make incumbents of both parties as safe as possible, preserving the balance of power and the political status quo (Lyons 2003). Bipartisan plans can be the consequence of divided government, which gives each party at least one veto point in the process (Krehbiel 1998).

Butler and Cain (1992) and Hirsch (2003) examine alternatives to districting plans drawn by legislative bodies, including those drawn by courts and commissions. They argue that courts and commissions mostly focus on factors other than partisan politics—such as compactness, responsiveness, and accountability—whereas legislators focus primarily on partisan goals. They find that competitiveness, while not a goal of courts' or commissions' redistricting, is often a byproduct.

Carson and Crespin (2004) examined how differences in redistricting plans have affected the competitiveness of U.S. congressional elections. They found that the degree of electoral competition generally increases when commissions or courts are responsible for drawing new congressional districts. Moreover, they found a distinct pattern in partisan differences in redistricting strategy when Democratic or Republican controlled state governments sought to offset their minority party status in the U.S. House of Representatives. They found that effects varied when controlling for the number of seats gained or lost in each state. Schaffner, Wagner, and Winburn (2004) examined legislators' motivations when redistricting, noting that elected members of legislative bodies have both their own personal reelection goals and direct ties to the political parties—perhaps resulting in conflicting goals.

In *Realities of Redistricting* (2008), Winburn examines the factors that make it more likely for redistricting to determine electoral outcomes as well as the constraints and limits on the influence of redistricting. Using state legislative data from eight states in 2000 and 2002, he finds that the control of the process, control of government, use of traditional districting principles, potential court involvement, and the use of coterminous districts affect electoral outcomes. While his analysis reveals the importance of commissions and courts, it fails to examine reapportionment in the context of fairness. Winburn focuses on competition only: in a review of the book, Engstrom points out that his primary indicator of partisan gerrymandering is whether supporters of the majority party

are moved from that party's safe districts into competitive districts and vice versa, regardless of the process (2009).

Literature examining the relationship between redistricting and competition ignores redistricting's outcomes, jumping directly from redistricting method to electoral competition. I introduce partisan symmetry as the essential intermediate step that links redistricting methods to electoral outcomes.

MEASURING COMPETITION

Researchers have developed numerous measures of party competition, notably V.O. Key's examination of party competition in the South (1956). At the same time, scholars were expounding the basic tenet of theories of democracy (e.g. Dahl 1956, Downs 1957) that voters should have a choice between candidates for office. In the 1950s, competition was measured as the percentage of partisan victories from the 1890s to the 1950s for presidential, senatorial and gubernatorial election contests (Schlesinger 1955, Ranney and Kendall 1954). The conceptualization of party competition took shape in the 1960s with the works of Dawson and Robinson (1963), Hofferbert (1964) and Ranney (1965). At that time, party competition became a state-level measure defined as the "proportion of success," "duration of success," and "frequency of divided control" for the state legislative and gubernatorial levels of competition. Aistrup (1993) developed a county-level measure of state legislative party competition for the periods between 1968-73, 1974-79, and 1980-85 modeled on Ranney's work.

Many political scientists have measured competition in its varying contexts (congressional, state level, and state legislative) through cross-sectional and longitudinal studies (e.g., Breaux and Jewell 1992; Cox and Morgenstern 1993; Ferejohn 1977; Garand and Gross 1984; Holbrook and Van Dunk 1993; Ranney 1976; Ray and Havick 1981; Tidmarch, Lonergan, and Sciortino 1986; Van Dunk and Weber 1997; and Weber, Tucker, and Brace 1991).

Others have examined the causes and effects of uncontested seats in Congress and state legislatures (e.g. Fenno 1978, 233; Jacobson 1990, 46-49; Squire 1989; Wrighton and Squire 1997; Squire 2000), showing that competitiveness of the state's electoral system contributes to incidence of uncontested seats across the states. They found that low levels of competition (and high rates of incumbent reelection) discouraged candidates from running for office, resulting in a large percentage of uncontested seats in any given election.

In the late 1960s, when the importance of party competition for representative democracy became a subject of intense debate, researchers first began defining party competition to mean the margin between votes cast for Democratic and Republican candidates for the U.S. House (Bond 1983) and the U.S. Senate (Fiorina 1974). At the district level, competition is generally measured using this principle: the difference in the percentage of votes won by the winning and losing candidates in an election. This is the measure that I use in this analysis.

SOURCES OF COMPETITION IN STATE LEGISLATIVE ELECTIONS

Many political scientists have identified and tested conditions that give rise to legislative competition. The effects of a wide variety of variables have been examined, such as district level features (e.g. Fiorina 1974, Koetzle 1998), economic conditions (e.g. Born 1984, Campbell 1986), quality of candidates (e.g. Jacobson and Kernell 1981, Van Dunk 1997), spending on campaigns (e.g. Caldeira and Patterson 1982, Gierzynski and Breaux 1991, Giles and Pritchard 1985, Jacobson 1978, Tucker and Weber 1993), and incumbency (e.g. Erickson 1971, Garand 1991, Holbrook and Tidmarch 1991, Jewell and Breaux 1988, Mayhew 1974). Other political scientists examine a range of variables simultaneously using aggregate measures of competition (Barilleaux 1986; Cox and Morgenstern 1993; Patterson and Caldeira 1984; Van Dunk and Weber 1997; Weber, Tucker, and Brace 1991). Many such studies estimate the long-range effects of such factors as party organizational strength (Patterson and Caldeira 1984) and institutional characteristics (Van Dunk and Weber 1997; Weber, Tucker, and Brace 1991).

In his research on the sources of partisan competition, Hogan (2003) finds that a district's characteristics, measured as social and partisan diversity, have a strong and durable influence on elections. He also reports that institutional characteristics such as legislative professionalism have a large influence, although the direction of their impact varies by stage of the electoral process examined. He concludes that district-level conditions have a large influence on competition; however, incentives created by institutional features are also critical for understanding the competitiveness of state legislative elections. Hogan's

emphasis on institutional features invites inquiry into the effect of apportionment on partisan competition.

Previous research has demonstrated a strong relationship between incumbency and competition (Jewell and Breax 1998; Weber et al 1991). Incumbents win state legislative elections more than 90 percent of the time. Others have found that incentives to compete are necessary to competition, including legislative professionalism, legislative performance, and minority party strength.

Many studies use a measure of legislative professionalism to examine the partisan implications for professionalized legislatures (Fiorina 1994). Legislators in more professionalized legislatures have more contact with their constituents (Squire 1993) and are more attentive to their concerns (Maestas 2000). More importantly, legislators enjoy electoral insulation from political tides as professionalization levels rise (Berry, Beckman, and Schneiderman 2000). Scholars have found that legislative professionalism affects the likelihood of competitive elections (Chubb 1988; Fiorina 1994; Rosenthal 1993; Weber et al. 1991). Measures of professionalism used by these authors include member pay, session lengths, and staff and resources. These authors also believe that as legislatures become more professional, competition decreases. In an aggregate study of state legislative outcomes for the years 1942-1982, Chubb (1988) found that professionalism gives state legislators the resources to insulate themselves from electoral challenges.

Van Dunk and Weber (1997) showed that when a minority party is within reach of winning control of the chamber in the upcoming election, the party will make a concerted effort to win the additional seats. These incentives result both in increased contesting and possible marginality in the election.

Weber et al. (1991) found a modest relationship between legislative performance (defined as legislative tax increases) and competition levels with legislative tax increases significantly related to marginal races in Ohio and to contested races in Iowa and Pennsylvania. Van Dunk and Weber (1997) confirmed that legislators are “punished” for some types of behavior by increased competition in the subsequent election.

Table 4.1 shows these variables at the state level.

[INSERT TABLE 4.1 HERE]

This table shows that there is considerable variation both within and across states on all variables. Minority party strength varies from .16 in Rhode Island in 2002 (a very weak Republican party) to .50 in New Jersey in 2007 (equally strong parties). All states except Indiana had years of tax increases and of no tax increases. Indiana raised taxes every year from 2002 to 2008. Legislative professionalism varies from .184 in Indiana in 2002, representing an amateur, part-time legislature, to .912 in New York in 2000, a very professional, full-time legislature.

DATA AND METHODS

I expect that partisan symmetry helps to create an environment conducive to competition. To test this hypothesis, I will model the relationship between partisan symmetry and competition at the district level between 2000 and 2008. Included in the model are the factors identified by Van Dunk and Weber (1997) as incentives for competition: incumbency, legislative professionalism, minority party strength, and legislative performance. I will also use a presidential dummy variable, since it may be systematically related to changes in marginality and contesting in my analysis.

I will use a multi-level model with random effects for states. This is necessary to account for special correlation within states. For comparison, I will also use a clustered robust standard errors model. The two models are somewhat similar. The clustered robust standard errors method of correcting the standard errors to account for the intraclass correlation is a somewhat weaker form of correction than using a multilevel model, which not only accounts for the intraclass correlation, but also corrects the denominator degrees of freedom for the number of clusters. When using clustered robust standard errors, the denominator degrees of freedom is based on the number of observations, not the number of clusters. Because variability in the predictors and residuals is removed when a multilevel model is used, the point estimates from this method are different than those obtained using the clustered robust standard errors model.

Both models include the following variables. All variables are standardized:

$$\text{COMP} = \text{BIAS} + \text{INC} + \text{LEGPROF} + \text{LEGPREF} + \text{PRESUM} + \text{MPS}$$

COMP	<i>Competition.</i> This variable is a district-level variable defined as the difference in percentage of votes won by the winner and loser in each district. [0-1]
SYM	<i>Partisan Symmetry.</i> This variable, as defined in Chapter 3, is a district-level variable measuring the amount of partisan symmetry in a district. [0-1]
INC	<i>Incumbent.</i> This district-level variable indicates whether there is an incumbent running for reelection in a given district. [0,1]
LEGPROF	<i>Legislative Professionalism.</i> This state-level variable is made up of three components: member pay, session lengths, and staff and resources. Member pay is measured as the annual compensation for legislators as a proportion of median family income. The second measure is a simple measure of mean session length for each two-year period. The third component is measured as the number of staffers, full-time and session, employed per constituent. Each component will accounts for one-third of the variable. [Standardized 0-1]
MPS	<i>Minority Party Strength.</i> This state-level variable will be measured as the percentage of seats the minority party controls for a given chamber in the period prior to the election. [0-1]
LEGPREF	<i>Legislative Performance:</i> To measure the relationship between legislative performance and legislative competition, I will include a variable measuring the enactment of increases in states taxes. Tax increases will be coded 1; the absence of any tax increase will be coded 0. (Source: The Tax Foundation 2012)
PRESUM	Presidential election year. This is a presidential election year dummy variable, included as a control factor. It is possible that strong coattails effects of national presidential trends could swamp the effect of partisan symmetry. [0,1]

RESULTS

A quick examination of summary statistics about competition in states using legislative and non-legislative redistricting methods shows that there is a difference in levels of competition between the two systems. The average

difference in percentages of votes won between winners and losers in states where legislators draw districts is .6254. In states where non-legislative bodies draw districts, the difference is .4561. A t-test confirms that there is significantly more competition in districts drawn by non-legislative bodies. Table 4.2 shows summary statistics for electoral competition.

[INSERT TABLE 4.2 HERE]

Of the two full models—a multi-level model with random effects for states and a clustered robust standard errors model—the random effects model is a better fit for the data, based on AIC and BIC scores. The random effects model's AIC of 2940.72 and BIC score of 2996.02 are both lower than the scores of the clustered robust standard errors model (AIC: 3008.99, BIC: 3052.00).

Nonetheless, the substantive results of the two models are fairly similar.

[INSERT TABLE 4.3 HERE]

District-level analysis shows that, consistent with my hypotheses, partisan bias is a modest factor in explaining competition. In the random effects model, partisan bias is modestly significant at the .10 level and has a coefficient of .2345. This means that higher levels of partisan bias lead to larger differences in votes between winners and losers in elections—i.e. less competition. In the clustered robust standard errors model, the coefficient grows to .5039.

Looking at Indiana from 2002 to 2006 provides one example of the effect of partisan bias on competition. In 2002, Indiana's partisan bias score was .047 and the average difference between winners and losers in state house elections was 61.7 percentage points. In 2004, Indiana's partisan bias score was .024 and

the observed average difference between winners and losers in state house elections was 56.9 percent. In 2006, Indiana's partisan bias score was .005 and the average difference between winners and losers in state house elections was 50.3 percent.

Comparing New York and New Jersey provides another demonstration. In New York, where partisan bias scores range from .168 to .222, the observed difference between winners and losers in the state house is more than 60 percent in all years from 2000 to 2008. In New Jersey, where partisan bias scores range from .014 to .07, the observed difference between winners and losers in state senate elections is never more than 35 percent in any year from 2001 to 2007.

Incumbency is also significant. With coefficients of .1984 in the first model and .1981 in the second, it is significant at the .01 level. This means that incumbency plays a large and influential role on competition at the district level—the difference between the percentage of votes won by winners and losers in an election with an incumbent is much higher than in elections with no incumbent. This is unsurprising given incumbency's important role in determining electoral outcomes and the historical rate at which incumbents win elections.

Legislative performance is significant at the .10 level in the clustered robust standard errors model—but in the opposite direction than expected: tax increases are correlated with less competitive elections. It is possible that the measurement of tax increases as a dummy variable—which treats large income tax increases the same as small changes in sales taxes or automatic changes in

gas taxes—is too blunt an instrument to capture the true effects of tax increases on competition.

As shown in Table 4.3, other variables that have been shown to contribute to competition are not significant in either model. Although I expect minority party strength plays a role in the relationship between redistricting, partisan symmetry, and competition, it may be the case that party strength, which changes little over time within states, contributes to the outcomes of the redistricting process—making any additional contribution to competition too small to measure.

It is unclear why presidential elections and legislative professionalism do not influence competition in this model. Regardless, both variables have very small coefficients, indicating that even if they were significant, the effects would be of very little consequence.

DISCUSSION

This research fills a missing causal linkage in research by Carson and Crespin (2004) and Winburn (2008). Those authors have shown that redistricting affects electoral competition—but not the way in which that relationship happens. My work shows that the intermediate step between redistricting and electoral competition is partisan symmetry.

The finding that partisan symmetry contributes to competition is important because healthy electoral competition bolsters democracy, improves representation and accountability, helps ensure that citizens can enjoy more liberty, and ensures the basic tenet of equality in elections: one-person, one vote.

Competition is necessary to keep American politics vibrant, responsive, and democratic. Improving competition will also produce voters who are more interested in elections, better-informed on issues, and more likely to turn out to the polls.

These findings give reformers in states with legislative redistricting a clear path to creating more competition in the electoral process: changing redistricting methods. Responsible redistricting is one method of improving competition that citizens and reformers can pursue.

In chapters three and four, I have established that redistricting process contributes to partisan symmetry and additionally that partisan symmetry contributes at the margins to electoral competition. Given the powerful relationship between incumbency and competition, it is noteworthy to have found even a modest correlation between partisan bias and competition.

UP NEXT

In the next chapter, I'll examine redistricting, partisan bias, and competition in North Carolina, where court challenges caused districts to change more frequently than is usual. In addition to examining the electoral history and outcomes from 2000 to 2008, I'll look at political actors' intentions and motivations in creating and challenging redistricting plans to discover how they view fairness and competition at the state level.

Table 4.1: Electoral Competition: State Level Variables

State	Year	Minority Party Strength	Legislative Performance	Legislative Professionalism
Alabama	2002	.34	0	.382
	2006	.42	1	.389
Indiana	2002	.46	1	.184
	2004	.43	1	.188
	2006	.45	1	.203
	2008	.48	1	.216
	2000	.44	0	.500
Iowa	2002	.49	1	.496
	2004	.49	0	.493
	2006	.47	0	.486
	2008	.45	1	.490
Mississippi	2003	.27	1	.275
	2007	.40	1	.274
New Jersey	2001	.40	0	.608
	2003	.45	1	.640
	2007	.50	1	.599
New York	2000	.33	0	.912
	2002	.37	1	.900
	2004	.37	1	.878
	2006	.33	0	.846
	2008	.29	1	.814
North Carolina	2000	.45	0	.292
	2002	.48	1	.369
	2004	.48	1	.369
	2006	.48	1	.358
	2008	.48	0	.347
Oregon	2000	.47	1	.484
	2002	.47	0	.478
	2004	.45	1	.472
	2006	.47	1	.468
	2008	.45	0	.474
Rhode Island	2002	.16	0	.464
	2004	.27	1	.470
	2006	.31	0	.474
	2008	.25	1	.472
Washington	2000	.45	0	.548
	2002	.47	1	.540
	2004	.47	1	.539
	2006	.45	0	.524
	2008	.41	1	.533

Table 4.2: Competition Summary Statistics

	Legislative Redistricting	Non-legislative Redistricting
Mean	0.6254	0.4561
Std. Dev.	0.3749	0.3846
Min	0.008	0.008
Max	1	1
N	2342	1001

Note: A difference of means test confirms that these scores are significantly different.

Table 4.3: Competition as a function of Partisan Bias

	Random Effects Model	Clustered Robust Standard Errors
	.0514*	.1105*
BIAS	(.0282)	(.0527)
	.1939***	.1935***
INC	(.0164)	(.0313)
LEGPROF	-.1044 (.0803)	-.0856 (.0479)
LEGPREF	.0014 (.0186)	.0295* (.0146)
MPS	-.0248 (.0409)	-.0807 (.0643)
PRESUM	-.0118 (.0289)	-.0029 (.0191)
Constant	-0.0289	0.0058
chi-squared	143.87	
r-squared		0.0627
AIC	2940.72	3008.99
BIC	2996.02	3052
N=3443		

Standard errors in parentheses. * significant at .1 level, ** significant at .05 level, ***significant at .01 level

CHAPTER FIVE: REDISTRICTING IN NORTH CAROLINA 2000-2010

In this chapter, I will examine North Carolina's experiences with redistricting from 2001-2010. I will measure district characteristics before and after each redistricting change and use interviews and newspaper reports of political elites who participated in or observed the political process that produced each set of redistricting maps. This round of redistricting will be particularly interesting as a topic for study because of the controversy surrounding it and the several iterations of new voting maps before elections actually occurred, in addition to an special interim map used only in the 2002 elections. The changes in districts—from 2000 to 2002, from 2002 to 2004, and again before the 2010 primaries—make this century's earliest elections in NC a perfect case study in competition and district effects in elections. Considerable partisan controversy in the North Carolina General Assembly makes this issue especially topical. Moreover, accurate data about partisan symmetry and competition will be useful to understand future redistricting efforts in North Carolina.

HISTORY

From 2000 to 2004, a series of state legislative elections took place in North Carolina using three distinct sets of legislative maps, two drawn by the NC

legislature and one drawn by a Superior Court judge. In 2008, those maps were again changed in response to a lawsuit filed in 2007.

Controversy has been the defining characteristic of North Carolina's recent redistricting history. Throughout the 1990s, North Carolina was the focus of several of federal lawsuits challenging alleged race-based congressional districts. In those suits, the courts ruled that racial gerrymandering is unconstitutional but partisan gerrymandering is not. These suits paved the way for state-level redistricting challenges beginning in 2002.

In mid-November 2001, a coalition of most North Carolina House and Senate Democrats, plus a few Republicans, finished redrawing legislative districts. On Nov. 13, Republican party activists filed a lawsuit in state court charging that the maps violated the state constitution by unnecessarily splitting counties. The court ultimately hearing the case—the N.C. Supreme Court—was held at the time by a 5-2 Republican majority.

Republicans' complaints about the 2001 maps were myriad:

- Many counties and municipalities were split among multiple districts.
- For the most part, voters had no common frame of reference or any sense that they shared a community of interest with others in their districts.
- The maps largely ignored the “one person one vote” rule—not to preserve county lines or respect communities of interest, but,

according to the plaintiffs, simply to maximize the number of Democrats elected.

The court heard the case, *Stephenson v Bartlett*, in April of 2002. Five of the seven members of the N.C. Supreme Court ruled that the plaintiffs were correct in their assertion that House and Senate maps drawn by the Democrat-controlled General Assembly had violated the state constitution's provision against splitting counties. The 2001 Senate Redistricting Plan divided 51 of 100 counties into different Senate districts and the 2001 House Redistricting Plan divided 70 out of 100 counties into different House districts.

All five members in this majority were Republicans, and the decision was written by Chief Justice Beverly Lake. Four of the five justices ruled that, in reality, the county-line provision doesn't always apply to legislative redistricting, even in counties outside the jurisdiction of the federal Voting Rights Act. They not only rejected the idea of multi-county, multimember districts as a remedy for the Democrats' unconstitutional gerrymander, but they actually ruled that such districts are themselves unconstitutional unless there is a "compelling state interest" at stake—which was apparently so strict a test as to invalidate not just proposed new multimember districts but all of the existing ones (*Stephenson v Bartlett* 2002).

This smaller majority found that multimember districts violated another provision of the state constitution, this one involving equal protection under the laws. In doing so, they essentially found that the equal-protection clause canceled out the whole-county clause when the latter would appear to require

multimember districts in order to keep districts as equivalent as possible in population.

Republican Robert Orr went in a different direction, arguing that the majority had accepted an argument—that the equal protection clause prevents multi-county districts and thus invalidates the plaintiffs' proposed remedy as well as, at least partly, the whole-county provision—even though "no party raised such an issue at trial, nor did anyone argue such an issue to this court" (*Stephenson v Bartlett* 2002). The two dissenting Democrats, Sarah Parker and G.K. Butterfield, argued that the Republican majority was engaging in a legislative rather than a judicial act.

On May 7, Johnston County Superior Court Judge Knox Jenkins held a hearing in the *Stephenson v. Bartlett* case that was remanded back from the N.C. Supreme Court, the majority of which gave Jenkins the authority to set a timetable for a new round of legislative redistricting. After the General Assembly failed to produce new maps, Jenkins drew new districts himself, with the aid of redistricting experts.

Jenkins plans made the following modifications to the legislative plan, (Sutton 5):

1. In Iredell County, Districts 95 and 96 were redrawn to run east-west, thereby respecting the boundaries of Statesville and Mooresville.

2. In Moore County, which anchors District 52, the county seat, Carthage, was added to its “home” District 52, removing it from District 51, which is anchored in Lee County.
3. In Guilford County, the City of High Point had been split among four districts (57, 60, 61 and 62). Jenkins’ plan eliminated one split that involved District 60, while maintaining the acceptable population variance ($\pm 5\%$) of the four districts.
4. The Court modified District 18 to increase its percentage of African American population from 44.00% to 46.99%.
5. District 113 was changed to encompass the southern tier of Transylvania, Henderson and Polk Counties running east-west.
6. In Onslow County, District 14 was modified slightly to increase its compactness.

House Speaker Jim Black and Senate leader Marc Basnight (both Democrats) later persuaded the State Board of Elections to file suit in federal court to seek invalidation for Jenkins' maps.

On June 27, a three-judge panel of the U.S. District Court in Washington rejected this attempt by North Carolina Democrats to invalidate legislative districts drawn by Jenkins and to reinstate their 2001 legislatively drawn maps. The judges were all Democrats, appointed by Democratic presidents.

On the week of July 11, 2002, Jenkins maps cleared another hurdle when the U.S. Justice Department ruled that the interim legislative districts drawn up by Jenkins complied with Section 5 of the federal Voting Rights Act in North

Carolina's 40 affected counties⁵. Jenkins maps were used in primary and general elections in 2002.

The North Carolina Supreme Court issued yet another ruling the week of July 16, 2003. In upholding the 2002 finding by Judge Jenkins, the 4-1 decision of the high court sent the matter back to the General Assembly for another round of map-drawing. In effect, the Supreme Court ordered legislators to go back to the drawing board and to employ neutral rules in fashioning House and Senate districts to last until 2010. They agreed with the trial court that the second set of maps the lawmakers drew in 2002 (maps labeled as Sutton 3) had been a gerrymander.

In early September 2003, *Stephenson v Bartlett* plaintiffs returned to the trial court in Johnston County with a motion to amend their complaint. They requested Judge Jenkins to intervene to force legislative leaders to draw new House and Senate districts before early November. Failing that, they wanted Jenkins to draw the districts himself – districts that would be in place for the rest of the decade. The plaintiffs lost the battle on Thursday, Sept 23. Jenkins stated in his decision that it was impossible for the plaintiffs to establish that the legislature's impasse over redistricting justified judicial intervention, since the legislature hadn't yet met to redraw the maps since the 2001 versions were rejected.

⁵ Anson, Beaufort, Bertie, Bladen, Camden, Caswell, Chowan, Cleveland, Craven, Cumberland, Edgecombe, Franklin, Gaston, Gates, Granville, Greene, Guilford, Halifax, Harnett, Hertford, Hoke, Jackson, Lee, Lenoir, Martin, Nash, Northampton, Onslow, Pasquotank, Perquimans, Person, Pitt, Robeson, Rockingham, Scotland, Union, Vance, Washington, Wayne, Wilson

In November 2003, during a special legislative redistricting session, members of the North Carolina General Assembly redrew their districts yet again. Both the Senate and House maps made only minor adjustments on the interim maps ordered by Jenkins in 2002.

The General Assembly ratified the 2003 redistricting plans as part of House Bill 3 on November 25, 2003. The Governor signed the bill that same day as Session Law 2003-434. The maps were effective from 2004 to 2008.

In August 2007, Pender County commissioners filed a lawsuit challenging the constitutionality of state House districts 16 and 18 on the grounds that those districts were created by unnecessarily splitting counties.

In 2009, the House Redistricting Plan was again modified by House Bill 1621. That bill was ratified by the General Assembly on June 11, 2009, and became law as Session Law 2009-78. The plan was precleared by the U.S. Justice Department under Section 5 on September 18th, 2009. The bill amended the House Redistricting Plan only by changing districts 16 and 18 in Pender and New Hanover counties.

[INSERT TABLE 5.1 HERE]

Table 5.1 reveals that relationships established in chapters three and four also apply in North Carolina. Although the differences between maps are small, in terms of both partisan symmetry and competition, the pattern remains: maps with less partisan bias yield more competition.

Timeline

EARLY 2001	Sutton House Plan 3 gains preclearance from United States Department of Justice
13 NOVEMBER 2001	<i>Stephenson v. Bartlett</i> is filed
19 NOVEMBER 2001	Defendants remove case to the United States District Court for the Eastern District of North Carolina
15 FEBRUARY 2002	Defendants represent to Superior Court that there was insufficient time for the General Assembly to promulgate a redistricting plan
20 FEBRUARY 2002	Superior Court grants Plaintiff's motion for summary judgment
4 APRIL 2002	<i>Stephenson v Bartlett</i> heard in Special Session in the North Carolina Supreme Court
7 MAY 2002	Johnston Superior Court Judge Knox Jenkins holds a hearing on <i>Stephenson v. Bartlett</i>
8 MAY 2002	Superior Court accorded first opportunity to draw new redistricting plans to the State House and the State Senate
17 MAY 2002	Redistricting plans denoted "Senate Plan-Fewer Divided Counties" and "House Plan-Sutton 5" were passed by a majority of the House and Senate
20 MAY 2002	Deadline for House and Senate to submit plans to Superior Court
22 MAY 2002	Superior Court concludes its review of "Senate Plan-Fewer Divided Counties" and "House Plan-Sutton 5" and submits "Interim House Redistricting Plan for North Carolina 2002 Elections"
JUNE 2002	NC State Board of Elections files suit in federal court to seek approval for Jenkins' maps
27 JUNE 2002	Three-judge panel of the U.S. District Court in Washington validate Jenkins' legislative districts
11 JULY 2002	U.S. Justice Department rules that Jenkins' maps comply with Section 5 of the VRA

2002	Primary Election (Jenkins' maps used)
2002	General Election (Jenkins' maps used)
16 JULY 2003	North Carolina Supreme Court orders legislators to redraw maps
SEPTEMBER 2003	<i>Stephenson v Bartlett</i> plaintiffs return to trial court in Johnston County to demand legislative leaders to draw new House and Senate districts before early November
23 SEPTEMBER 2003	Jenkins denies plaintiffs' demands
NOVEMBER 2003	Members of the North Carolina General Assembly redraw districts in a special legislative session
25 NOVEMBER 2003	General Assembly ratifies new districts as part of House Bill 3. Governor signs bill as SL 2003-434.
AUGUST 2007	Pender County commissioners file a lawsuit challenging the constitutionality of House districts 16 and 18
11 JUNE 2009	House redistricting plan is modified by House Bill 1621 to change districts 16 and 18
18 SEPTEMBER 2009	U.S. Justice Department preclears new districts under Section 5 of the VRA

RULES FOR REDISTRICTING

Federal rules, state rules, and North Carolina's constitution provide guidelines for redistricting. According to the website of the North Carolina General Assembly, North Carolina's redistricting process is subject to five principal rules, described on the North Carolina General Assembly website. These rules provided the basis for court challenges to legislative maps.

- **One person must equal one vote:** Each district that elects one representative to a legislative body is required to be at least approximately

equal in population to every other such district. For State House and State Senate districts, the State Supreme Court has said that means that no district may deviate from the average district population size by more than 5%. The State Supreme Court, in its 2002 *Stephenson v. Bartlett* decision, interpreted the State Constitution as having a presumption that all districts in House and Senate must be single-member districts.

- **Consideration of Minorities:** The Voting Rights Act and various court cases decided under it forbid drawing districts that dilute minority voting strength. For the 40 counties in North Carolina covered by Section 5 of the Voting Rights Act, this means avoiding "retrogression," or worsening the position of racial minorities with respect to the effective exercise of their voting rights. All 100 counties are subject to Section 2 of the Voting Rights Act, which may require drawing districts which contain a majority minority population if three threshold conditions are present:
 - a minority group is large enough and lives closely enough together so that a relatively compact district in which the group constitutes a majority can be drawn
 - the minority group has a history of political cohesiveness or voting as a group, and
 - the white majority has a history of voting as a group sufficient to allow it to usually defeat the minority group's preferred candidate.

The totality of circumstances, including a past history of discrimination that continues to affect the exercise of a minority group's right to vote, must

also be taken into consideration. These rules come from *Thornburg v. Gingles*, a landmark US Supreme Court Voting Rights Act case arising from North Carolina in the 1980s.

- **Impermissible Consideration of Race:** The General Assembly and its redistricting plans are also subject to lawsuits if considerations of race impermissibly dominate the redistricting process. This may occur when non-compact majority-minority districts are drawn in such a manner that traditional redistricting principles, such as compactness, contiguity, respect for political subdivisions or communities of interest, are substantially ignored. Where the Voting Rights Act threshold factors exist, a majority-minority district may be justified if it is tailored to address the threshold factors. These rules come from *Shaw v. Reno*, another landmark US Supreme Court case arising from North Carolina in the 1990s. Obviously, abiding by both sets of rules regarding race can be a challenge.
- **Districts Must Be Contiguous:** Under the State Constitution, Senate and House districts must consist of contiguous territory. By tradition, the contiguity requirement also has been applied to Congressional districts. Contiguity means that all parts of a district must touch. The district must not have any detached parts.
- **Division of Counties Must Be Minimized:** Article II of the State Constitution says that in drawing State House and Senate districts, no county shall be divided. In 1981, the US Department of Justice said that

requirement was inconsistent with the Voting Rights Act, so the General Assembly disregarded it for 21 years. Then in 2002 the State Supreme Court in the case of *Stephenson v. Bartlett* said the "Whole County Provision", found in the State Constitution must be honored to the extent it can be honored, consistent with the Voting Rights Act and other State and federal precepts. The *Stephenson* decision for the first time said the equal protection clause of the State Constitution contained a presumption for single-member legislative districts, and that presumption should be a limitation on the Whole County Provision. The US Justice Department approved the *Stephenson* opinion and withdrew its 1981 objection to the Whole County Provision. The Court in *Stephenson* prescribed a step-by-step method for harmonizing the Whole County Provision with the other laws. First, the General Assembly should draw the districts required by the Voting Rights Act. Second, it should take all the counties with just the right population to be single-member districts and make them one-county single-member districts. Third, it should take all the counties that have just the right populations for one or more districts and divide those counties into compact single-member districts. Fourth, for the remaining counties it should group them into clusters of counties and divide the clusters into compact single-member districts, crossing county lines within the cluster as little as possible. (North Carolina General Assembly)

NORTH CAROLINA REDISTRICTING GOALS: FAIRNESS, COMPETITION, AND PARTISANSHIP

In order to identify the goals of major participants in the North Carolina redistricting process and judicial struggle, I examined newspaper accounts from the time and also conducted interviews with some of the actors.

In my examination of newspapers and in interviews of major players in North Carolina's 2001-2004 redistricting battles, I looked at partisan actors' goals in redistricting, partisan (and non-partisan) actors' definitions of fairness, whether competitiveness and fairness are conflated, and actors' views on reform efforts. These interviews and newspaper accounts helped me answer the question of whether partisans and reformers would be satisfied with fair elections that are not competitive (and vice versa).

Interview Methodology

I chose to focus on the *Stephenson v. Bartlett* case as a starting point for interviews. I attempted to contact everyone involved in the case, including plaintiffs (Ashley Stephenson, Leo Daughtry, Partick Ballentine, and Bill Cobey); defendants (Gary O. Bartlett, Larry Leake, Robert O. Cordle, Genevieve C. Sims, Lorraine Shinn, and Charles Winfree); the judges (Superior Court Judge Knox Jenkins and former Chief Justice I. Beverly Lake); and members of the media (Barry Smith, Mitch Kokai, and Josh Ellis) and reform groups (Chris Fitzsimon and John Hood) that covered the case. I also interviewed two legislators (Andrew

Brock and Peter S. Brunstetter) who proposed alternatives to the legislative process that lead to the *Stephenson* court challenge.

I contacted all the possible interview candidates either by email or letter or both. Six of the candidates responded positively to my interview requests: Patrick Ballentine, Bill Cobey, Peter Brunstetter, Mitch Kokai, Barry Smith, and John Hood. Robert O. Cordle responded (as a spokesperson for the defendants), stating that the State Board of Elections had no substantive comments on the case. The first three are partisan Republican actors (either current or former politicians). Mitch Kokai and Barry Sanders covered the case for News 14 Carolina and Freedom Communications, respectively. John Hood commented on the case as part of his work at the conservative John Locke Foundation (where I once interned). It is possible that my association with the Foundation and the conservative community is part of the reason that no Democratic partisans or liberal reformers agreed to interviews.

Interviews took place from March 1, 2010 through December 2011. Interviews were conducted in person, over the phone, and via email. No audio or video recordings were made; extensive typed and hand-written notes were used to record interviews. Interviews generally lasted from 30 minutes to one hour. Newspaper accounts were published between January 2001 and December 2003. Interview questions are included in Appendix B.

Interview Findings

Newspaper accounts and interviews with stakeholders in North Carolina's redistricting process have revealed that political elites have distinct ideas of competitiveness and fairness, but believe that fair procedures contribute largely to competitive elections. Both partisan and non-partisan actors believe that fairness is a procedural goal, while competition is simply an outcome—for the most part a desirable one. Partisan actors, particularly those in the minority party, see fair procedures as a hedge against gerrymandering (by the other party) and as a means to an end: electoral competitiveness. Across the board, political elites believe that redistricting reform is desirable, but unlikely; motivations for desiring reform range from partisan political interests to “good government” sensibilities.

Definitions of Fairness

Both partisan actors and non-partisan observers of North Carolina's redistricting process cited redistricting rules—including one-man-one-vote, whole county, and contiguity provisions—as indicators of fairness. NC Senator Peter S. Brunstetter (R-Forsyth), sponsor of “An Act to amend the constitution of North Carolina To establish the Hamilton C. Horton Independent Redistricting Commission” believes that fair redistricting processes and competitive elections are imperative for democracy to function; “When you have [uncompetitive elections], the legislature becomes unaccountable. Legislators gain entrenched power positions. Democracy becomes unresponsive. The majority of legislators represent a minority of preferences.”

Bill Cobey, former chairman of the North Carolina Republican Party and one of the plaintiffs in *Stephenson v. Bartlett*, explained his view of the whole counties provision by saying, “it’s helpful for [representatives] and constituents. [Without the provision], people don’t know who’s representing them.” In addition to the whole county provision, he said that contiguity and compactness are important: “A district shouldn’t look like you’ve pulled out enough votes specifically to affect elections. [A district] should look like it makes sense. You can look at it and see that it looks reasonable.” He also cited communities of interest as a principle by which districts should be drawn.

Art Pope, a former Republican N.C. House member and one of the plaintiffs in *Stephenson*, cited “traditional redistricting common sense” as one way to look at whether maps are fair (2001). In the *Mount Airy News*, Pope cited lack of debate and the violations of the whole county provision as evidence that North Carolina’s districts were unfair: “The big D Democrats do not like small D democracy.” Pope said the Democratic House plan “slices and dices” the counties it does divide, often putting them into three or four districts (2002).

John Hood, president of the non-profit John Locke Foundation in Raleigh, NC, poses a question to gauge fairness in redistricting: “Can the voters choose their representatives or are their votes constrained by the maps. The more you can let voters decide who represents them, the more fair. It’s ultimately not about the candidates—it’s about the voters. What’s fair to candidates doesn’t matter, the voters’ power matters.”

Mitch Kokai, chief state government reporter for News 14 Carolina at the time of *Stephenson v. Bartlett*, defined fairness based on legal principles: "...‘fair’ maps would comply with the legal and constitutional restrictions applied to the redistricting process. It’s my understanding that the restrictions include: the requirement that each district include roughly the same number of people, so that each representative represents the same number of constituents and each senator represents the same number of constituents; the requirement that districts be as compact as possible, to ensure that legislators live as close as possible to the people they represent; the requirement that counties remain intact for voting-district purposes to the greatest extent possible; and the requirement that North Carolina’s maps comply with current federal restrictions linked to court cases involving voting rights." He further explained that truly fair maps are ends-independent: "‘Fair’ maps don’t boost the likelihood that a particular party will win; neither do they guarantee that the party in power can thwart the will of the people. Voters should choose their elected leaders; elected leaders should have very little leeway in choosing the voters who will cast ballots for or against them."

Barry Smith, Raleigh Bureau Chief for Freedom Communications, added that incumbency protection should not be a part of "fair" redistricting processes. "There should be no personal or partisan consideration in drawing districts. Voters should choose their representatives, not the other way around."

Non-partisan actors and members of the minority party criticized North Carolina’s legislative process, saying that reforms are necessary. Chris Fitzsimon, director of the non-profit NC Policy Watch, is quoted on the NC

Coalition for Lobbying and Government Reform's website saying, "Democracy at its best is a battle of ideas. The current [legislative] redistricting process discourages real debates about the issues facing North Carolina by deciding many elections before a single vote is cast." Fitzsimon recently praised the N.C. House Republicans' decision to pass legislation that would create an Iowa-style redistricting process for 2021.

Republican Senator Peter Brunstetter agreed that North Carolina's districts are unfair: "Legislators pick voters rather than voters picking their legislators. With the advent of redistricting technology—where you can drag and drop neighborhoods from one district to another—there are very few really contestable districts [here in North Carolina]. In the Senate, for example, there are only 6 to 10 districts that are truly contestable."

Art Pope described Sutton 3 as "a map that goes all over the place" (2001). He was also quoted in the *Mount Airy News* criticizing the Sutton 5 maps on the grounds that the procedures were unfair.

Fairness and Competition

Observers of the political process believe that fairness and competition are linked—and that both are important. Mitch Kokai explained that competition and fairness are distinct, but interdependent: "Competitive elections are important, though this is not the same as fair elections. If 80 percent of the state's population supports a particular party, it's entirely possible that many of the races for particular legislative seats will be uncompetitive. Competition also depends on

factors wholly unrelated to election maps, such as the major parties' relative skill in recruiting and supporting their candidates. That said, fair elections based on legal, constitutionally sound election maps are likely to produce competitive elections in North Carolina, where both Republicans and Democrats have been able to mount successful statewide campaigns in recent decades.”

John Locke Foundation president John Hood noted that fairness in the system can affect competition, but that competition shouldn't be the only—or even the primary—consideration when drawing maps: “The political system should not impose constraints on electoral competition; which is not the same as saying that the system should censure elections. But you don't have to bend over backwards to maximize cases where both major party candidates are...equally likely to win. But the system shouldn't impose constraints on one candidate or another, either, or be drawn to help incumbents or to hurt newcomers.”

Senator Brunstetter, a Republican whose district (at the time of the interview) had been drawn by Democrats, said that even his own district was uncompetitive due to political gerrymandering: “I never have to worry about a general election opponent. Only a primary. Most of the districts are not competitive. If you have 20 percent or fewer of seats contestable, that's not a fair election. The goal should be representative democracy—but with this level of competition, that's not what we're getting.” To Brunstetter, who observed the redistricting process as a member of the minority party, it was clear that competition and fairness in redistricting are unavoidably—and intentionally—linked.

The Role of Partisanship

Partisan and non-partisan actors view the relationship between fairness and competition differently, and also see competition in notably different ways. In general, partisans (particularly those out of office) view fairness as a means to an end: a restraint on gerrymandering or dirty-dealing by the “other” party; they sometimes recognize it as an important check on their own party as well.

Both partisan and non-partisan actors noted that redistricting is inherently a partisan process. The *Raleigh News & Observer's* (2004) account of one incident during redistricting hearings is illustrative: “[Johnston Superior Court Judge] Jenkins admonished lawyers for making political statements in their arguments. And after listening to Wednesday's courtroom barbs, he asked the attorneys to refrain from characterizing the motives of the other side. ‘When we do that, we simply get away from what we're here for,’ Jenkins said. ‘It's more effective for a jury than for a proceeding like this.’”

Minority party partisans view partisanship as particularly detrimental to the redistricting process, while those in the majority often consider redistricting a “spoil of war.” Peter Brunstetter cited partisanship (on the part of Democrats) as the reason his bill to create a redistricting commission did not leave committee: “[The bill] was buried. I filed the bill when I first got to the legislature in 2006 or 2007. [It was] assigned to the Ways and Means Committee, which hasn't met in years. Now, it's in Judiciary I, [of which] Martin Nesbitt was Chairman. He basically said that the [Senate] Pro-Tem's office wouldn't let it be heard. Their

interest is in retaining power. And their method [redistricting] has been very effective. There's been no change in the [partisanship of the] NC Senate since 1898—a pretty good winning streak.”

Art Pope, a member of the Republican minority during redistricting, was quoted in the Jacksonville Daily News saying that partisanship should not be considered for drawing maps (particularly when meeting Voting Rights Act requirements), “We are not asking for it to be a partisan Republican map. We are not asking for a partisan Democrat map. If creating a majority black district makes an adjoining district less Democratic or more Republican, then so be it. Let the chips fall where they may” (2001).

Both partisan and non-partisan actors believe that a noticeable lack of competition often indicates that districts have been drawn unfairly. Bill Cobey’s explanation of the motivations behind *Stephenson* highlights the interplay of partisan interests and “good government” outcomes: “We [Republicans] were not happy with the redistricting outcome. Many Republican House Members had individually worked deals out with [House Speaker] Jim Black to save their seats—the hearings were just a façade. It became impossible to fight legislatively. [NCGOP lawyer] Tom Farr said a legal case was possible [because of the split counties.]...In the end, it was a good constitutional decision. It favored Republicans, but in the long term it [codified] the whole county provision, which is good for voters.

Former Republican gubernatorial candidate Patrick Ballantine’s response includes reactions to the 2001 redistricting who proved “unlikely allies”—including

editors at the several local newspapers. These allies noted that 2001's "unfair" districts would likely lead to uncompetitive elections for the next decade. "The senior political columnist for the *News & Observer* agreed with me that the elections were 'rigged,' noting that 'the outcome of most of the next year's races for the 170 legislative seats are a foregone conclusion.' And a lead editorial chastised Democrats for 'muscling out reason,' Ballantine said. The Greensboro *News & Record*, Ballantine remembered, called the legislative district maps 'indefensible.' It criticized the General Assembly for having 'no interest in doing what's right and fair and reasonable when there is a political advantage in doing what is wrong and unfair and outrageous.

Non-partisan actors view fairness as an important determinant of whether competition exists, and view competition as a good thing in its own right—keeping parties honest and improving voter participation. Chris Fitzsimon of N.C. Policy Watch explained how partisan preferences affect redistricting outcomes: "When legislators draw maps, their first priority is keeping their own seats safe. Trade-offs and mutual agreements give incumbents who play the game friendly districts. More partisan districts give voters in the broad middle of the political spectrum little choice on Election Day."

CONCLUSION

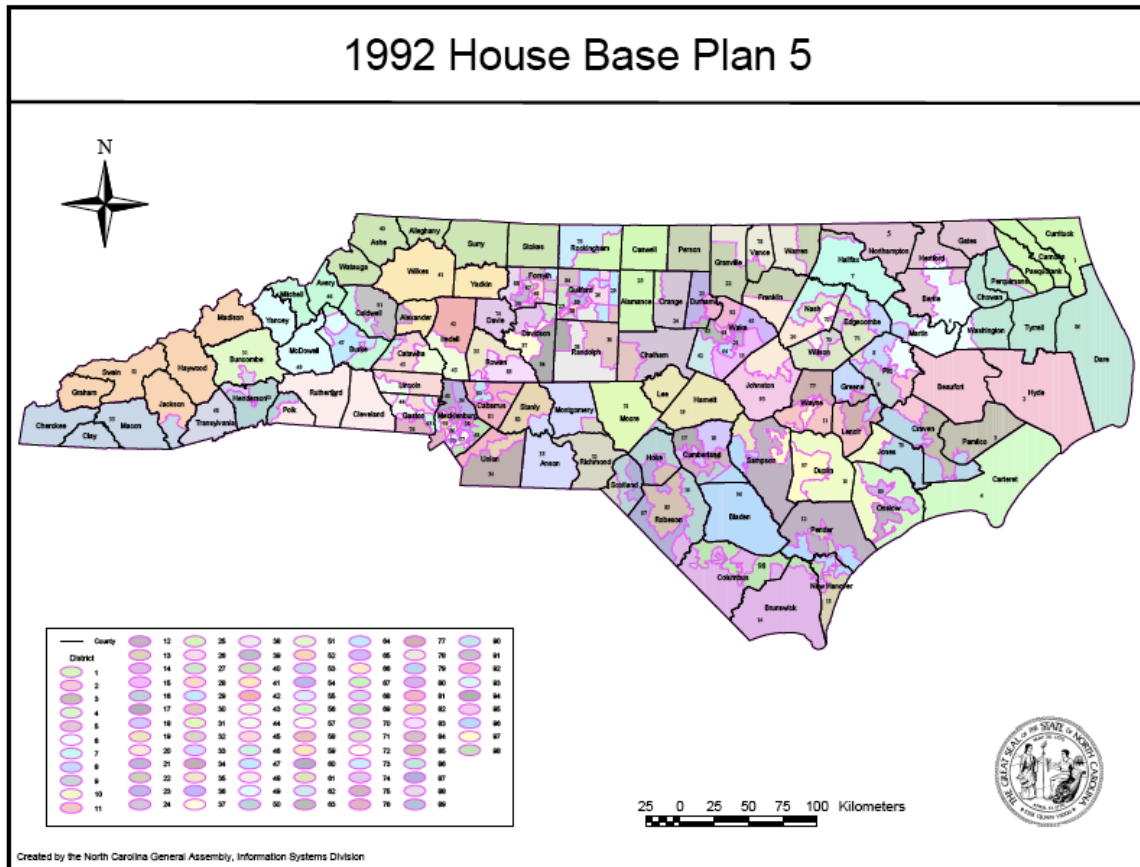
Events in North Carolina from 2000 to 2008 confirmed my empirical findings. Redistricting bodies and court challenges exert a strong influence on the outcome of redistricting maps. The *Stephenson* case and the redistricting

principles that it enforced helped to create districts with low partisan bias (between .01 and .03) and relatively high levels of competition (see Table 5.1). Both members of the minority party and non-partisan observers of the process agreed that these outcomes were not possible using legislative redistricting alone. The precedents set by *Stephenson* lay a foundation for further reform in North Carolina.

Table 5.1: Maps Used in North Carolina Elections, 2000-2010

Map	Figure	Election	Partisan Bias	Competition
Original 1990s Maps	1	1992-2000 General Elections	0.02537 (2000)	.5622
Sutton House Plan 3	2	Not used in an election	Not Included	N/A
Sutton House Plan 5	3	Not used in an election	Not Included	N/A
Knox Jenkins Interim Maps	4	2002 General Election	- 0.01708	.5561
Court-Sanctioned Legislative Maps	5	2004-2008 General Elections	0.03747 (avg.)	.6367
Session Law 2009-78 (HB 1621)	6	2010 General Election	Not Included	Not Included

Figure 5.1: Original 1992 NC House plan (Used in 1992-2000 elections)



Proposed House Plan - Sutton 5

The map displays the proposed House District 5 (Sutton 5) in North Carolina. The district is highlighted in blue and includes the following counties: Johnston, Wayne, Lenoir, and Jones. The map also shows surrounding districts, each assigned a unique color and number. A legend in the bottom left corner provides a key for the counties and districts. A north arrow is located in the top left corner, and a scale bar indicating distances from 0 to 200 miles is at the bottom.

Legend:

County	District
Adams	1
Alamogordo	2
Albemarle	3
Alfonso	4
Alhambra	5
Alhambra	6
Alhambra	7
Alhambra	8
Alhambra	9
Alhambra	10
Alhambra	11
Alhambra	12
Alhambra	13
Alhambra	14
Alhambra	15
Alhambra	16
Alhambra	17
Alhambra	18
Alhambra	19
Alhambra	20
Alhambra	21
Alhambra	22
Alhambra	23
Alhambra	24
Alhambra	25
Alhambra	26
Alhambra	27
Alhambra	28
Alhambra	29
Alhambra	30
Alhambra	31
Alhambra	32
Alhambra	33
Alhambra	34
Alhambra	35
Alhambra	36
Alhambra	37
Alhambra	38
Alhambra	39
Alhambra	40
Alhambra	41
Alhambra	42
Alhambra	43
Alhambra	44
Alhambra	45
Alhambra	46
Alhambra	47
Alhambra	48
Alhambra	49
Alhambra	50
Alhambra	51
Alhambra	52
Alhambra	53
Alhambra	54
Alhambra	55
Alhambra	56
Alhambra	57
Alhambra	58
Alhambra	59
Alhambra	60
Alhambra	61
Alhambra	62
Alhambra	63
Alhambra	64
Alhambra	65
Alhambra	66
Alhambra	67
Alhambra	68
Alhambra	69
Alhambra	70
Alhambra	71
Alhambra	72
Alhambra	73
Alhambra	74
Alhambra	75
Alhambra	76
Alhambra	77
Alhambra	78
Alhambra	79
Alhambra	80
Alhambra	81
Alhambra	82
Alhambra	83
Alhambra	84
Alhambra	85
Alhambra	86
Alhambra	87
Alhambra	88
Alhambra	89
Alhambra	90
Alhambra	91
Alhambra	92
Alhambra	93
Alhambra	94
Alhambra	95
Alhambra	96
Alhambra	97
Alhambra	98
Alhambra	99
Alhambra	100
Alhambra	101
Alhambra	102
Alhambra	103
Alhambra	104
Alhambra	105
Alhambra	106
Alhambra	107
Alhambra	108
Alhambra	109
Alhambra	110
Alhambra	111
Alhambra	112
Alhambra	113
Alhambra	114
Alhambra	115
Alhambra	116
Alhambra	117
Alhambra	118
Alhambra	119
Alhambra	120

Figure 5.3: Sutton NC House Plan 3 (Never Used)

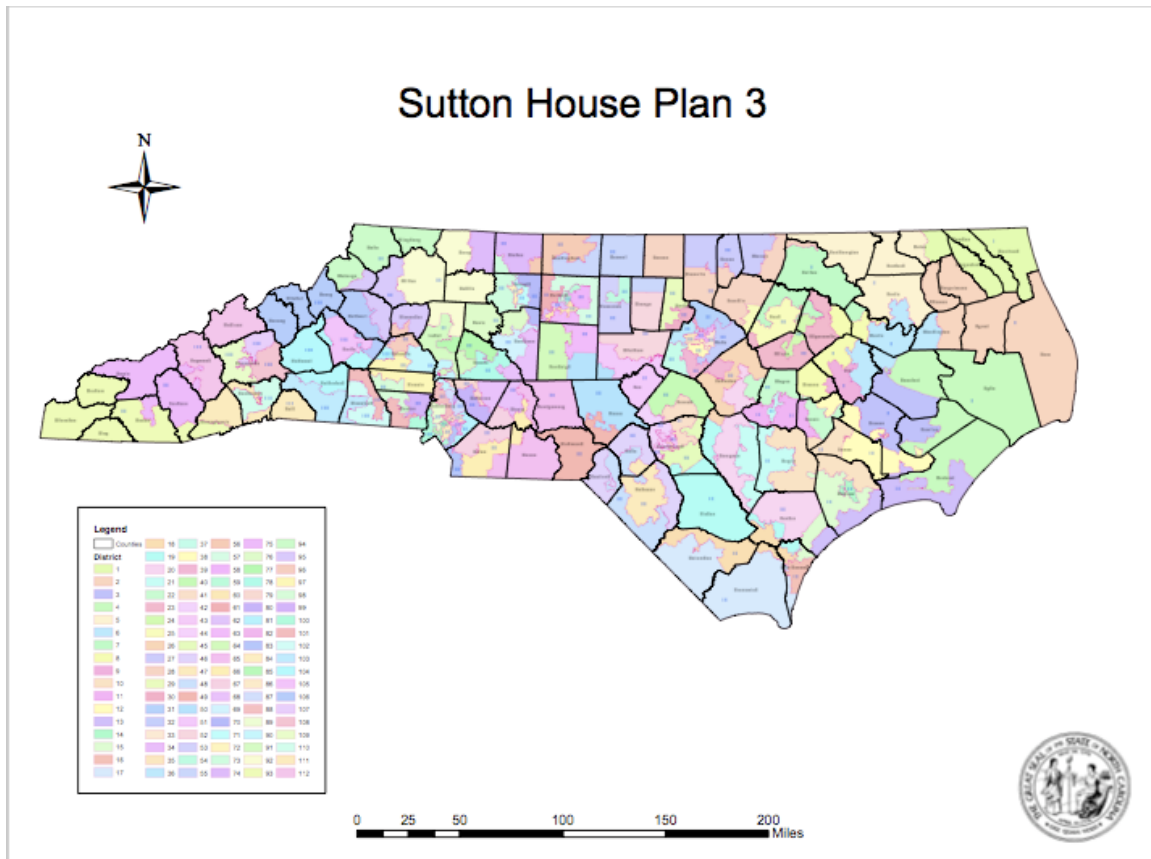


Figure 5.4: Interim/Jenkins House Maps (Used in 2002 NC Elections)

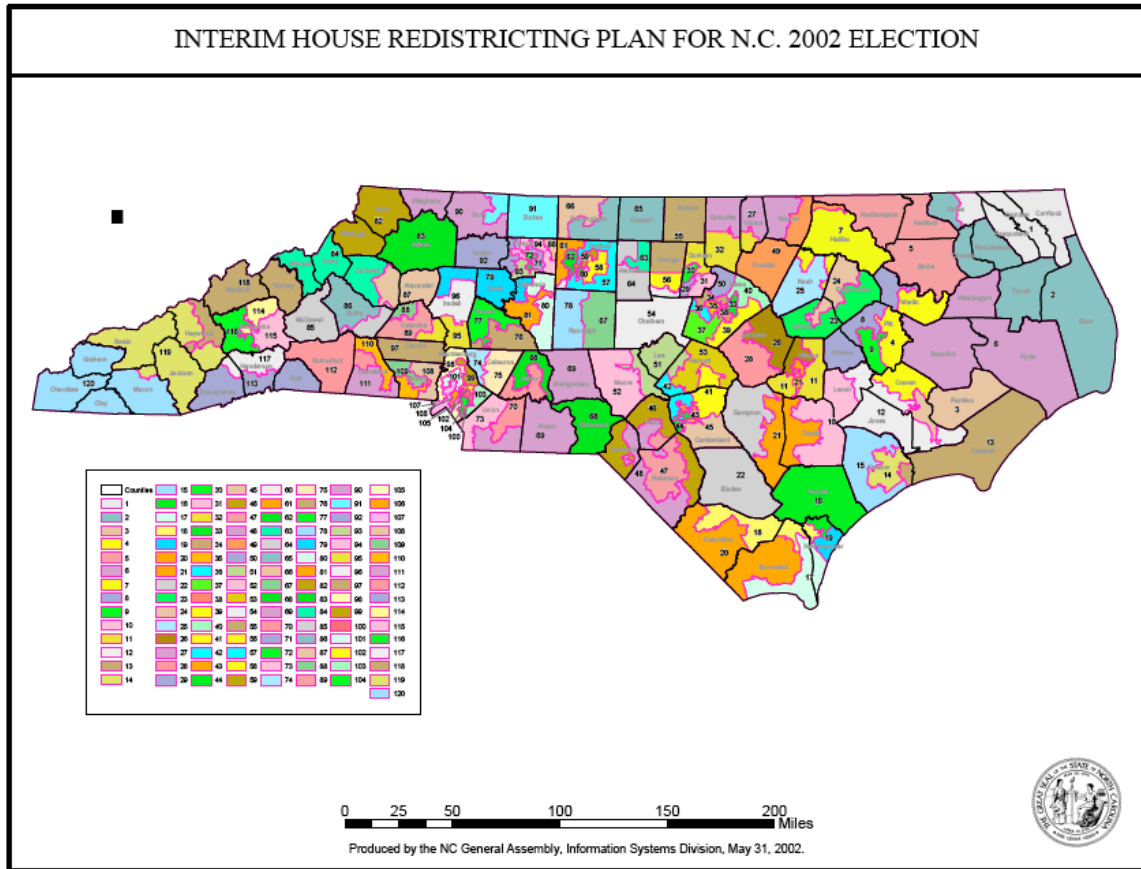


Figure 5.5: 2004 NC House Redistricting Plan (Used in 2004 Elections)

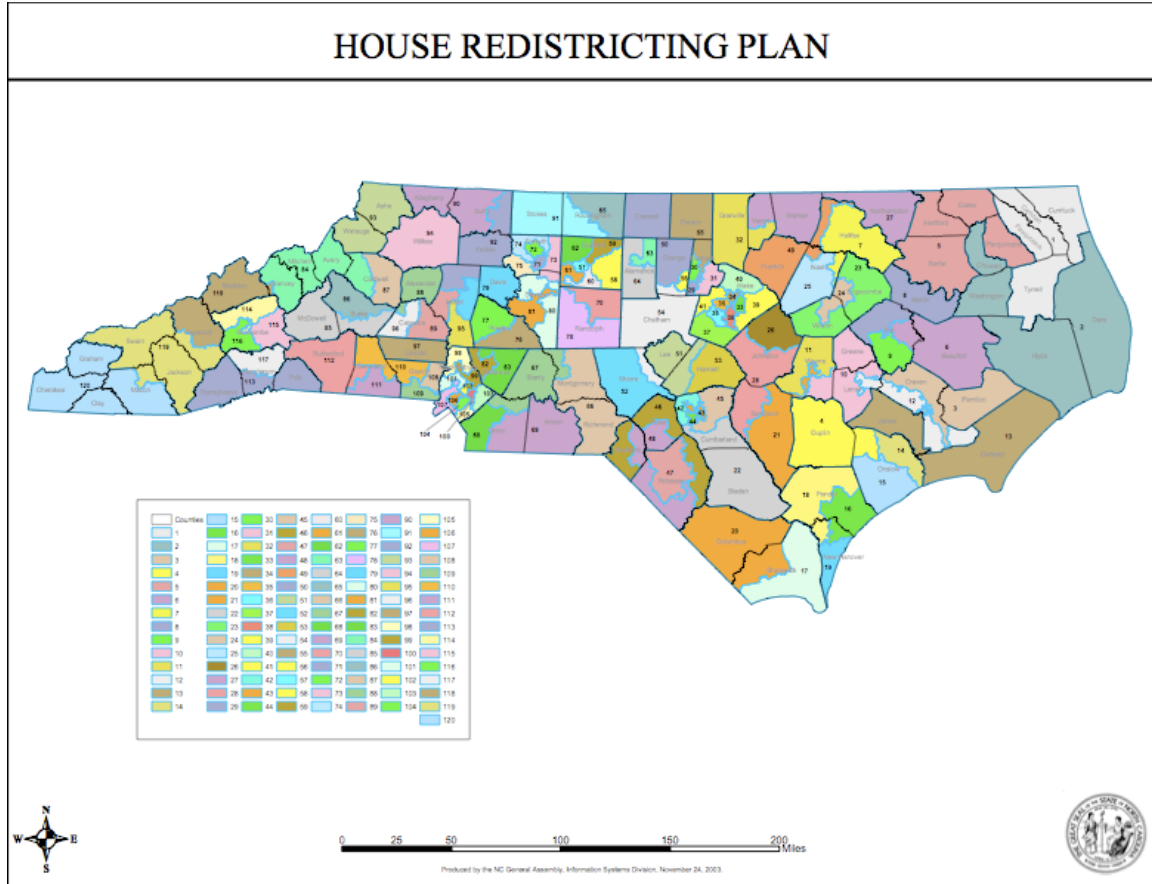
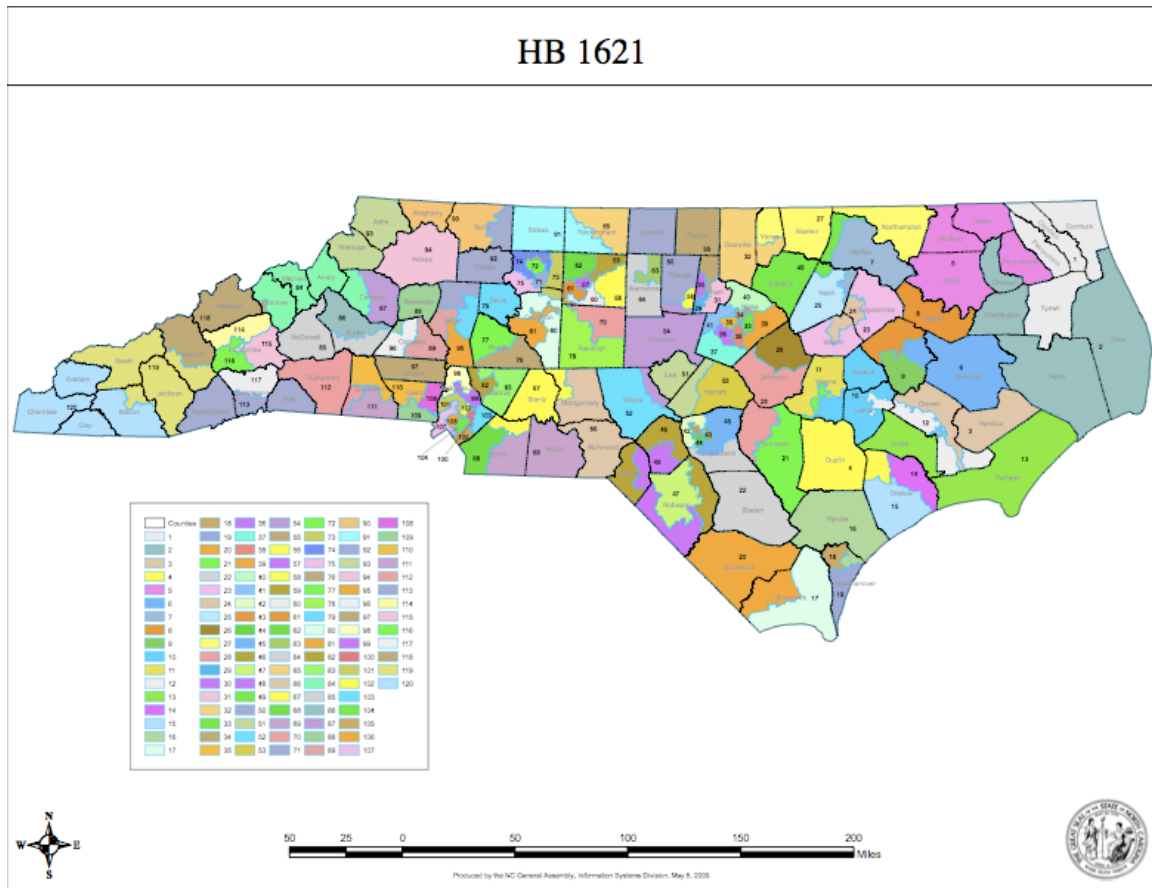


Figure 5.6: House Maps after HB 1621 (Used in 2010 Elections)



CHAPTER SIX: CONCLUSION

A thorough understanding of the effects of redistricting at all levels—and the possible abuses of the power to draw districts—is imperative for thriving democracy. Redistricting is one of the few activities that allow incumbent elected officials to directly affect both their futures as political candidates and the quality of democracy in the areas where they serve. This dissertation adds to the understanding of both the mechanics of redistricting and the possible consequences of various redistricting options—with possible implications for public policy (discussed below).

This dissertation has shown that legislators' personal and political preferences matter: that those preferences can be manifested in redistricting maps in the form of lack of partisan symmetry or bias, and that biased electoral maps translate into lower levels of electoral competition at the state level. These findings have important consequences for democracy and representation.

Since Governor Elbridge Gerry voted to approve Massachusetts' famous salamander—and probably long before—partisans have recognized the political value of wielding the pen that draws electoral districts. The first priority of incumbent political actors is reelection; legislators have a unique opportunity to make their own paths to reelection easier by drawing gerrymandered maps. Whether districts are drawn to protect incumbents, achieve desired electoral

results for a particular party, or to help or hinder a particular demographic group, unchecked gerrymandering plays a large role in electoral competition. With new redistricting technology, the kind of very precise demographic manipulation necessary to gerrymander is easier than it has been in the past.

Of course, the desire to influence political outcomes is not necessarily limited to legislators. All individuals—from voters to politicians to bureaucrats—are motivated more by self-interest than by public interest. When possible, any actors who can personally benefit from changes in redistricting will draw maps to benefit themselves and their parties. But actors with both personal and partisan preferences—the legislators themselves—are more likely to do this than those who have only partisan reasons for preferring certain outcomes. Legislators with the power to draw electoral maps gain both psychic benefits and tangible personal benefits—in the forms of party prestige, party power, and improved reelection prospects—from drawing maps with high levels of partisan bias.

Because of these personal incentives, redistricting rules matter. Rules that prevent actors with personal and partisan motives from affecting the process are fairer; this analysis shows that maps drawn by legislators have significantly higher levels of partisan bias than maps drawn by judges, state-level administrators, and independent commissions.

Partisan bias is important conceptually because of its use as an objective measure of absence of fairness in redistricting, but it is also important because it is a significant contributor to reduced electoral competition.

CONTRIBUTIONS TO LITERATURE

This dissertation contributes to existing literature in two significant ways. First, it follows up Gelman and King's (1994) initial comparisons of redistricting within states and redistricting's effects on partisan symmetry—confirming the conclusion of their case study in Ohio. Second, it outlines the way in which redistricting practices and electoral competition are related, confirming past research on the topic and filling in important gaps in the existing explanation of the relationship between redistricting and competition.

This dissertation builds on the comparisons of redistricting plans done by Gelman and King. Gelman and King's (1987) introduction of a new model for evaluating electoral systems and redistricting plans allowed them to estimate the partisan bias and electoral responsiveness of the U.S. House of Representatives since 1900 and to evaluate the fairness of competing redistricting plans for the 1992 Ohio state legislature—finding, in that case, that reapportionment maps drawn by a non-partisan commission had a lesser degree of partisan bias than proposed maps drawn by both Republican and Democratic members of the legislature (1994).

My work expands on these findings by quantifying the differences between maps drawn by different actors and expanding the conclusions across states. It shows that maps drawn by legislators have significantly more partisan bias than maps drawn by judges, commissions, or members of the council of state. These findings hold regardless of party, political culture, and presidential elections.

Carson and Crespin (2004) and Winburn (2008) have shown that redistricting affects electoral competition—drawing a direct connection between redistricting practices and electoral outcomes. My research pinpoints partisan symmetry—and its converse, partisan bias—as the mechanism by which redistricting affects electoral competition. I show that states with high levels of partisan bias are more likely to have lower levels of electoral competition. And that those states’ districts are more likely to be drawn by legislators than by judges, commissions, or members of the council of state.

Schaffner, Wagner, and Winburn (2004) examined legislators’ motivations when redistricting, noting that elected members of legislative bodies have both their own personal reelection goals and direct ties to the political parties. My research builds on their work by showing how the goals of those members affect redistricting outcomes.

NORMATIVE IMPLICATIONS

The findings in this dissertation have important normative implications. Both fairness of the democratic process and strong electoral competition have long been important goals of government reformers. Fair elections are necessary to ensure that governments are legitimate representatives of the people—central to the American commitment to the concept of “consent of the governed.” Representation itself relies on the assumption that elections accurately reflect citizens’ preferences. A thorough understanding of fair electoral processes—and the best way to achieve such goals—is important for reform.

Gerrymandering has historically been used to disenfranchise minority voters, from those in the minority party, to racial minorities, to those with minority opinions. It also allows legislators to indulge their own personal preferences over the public interest. Finding reliable and predictable ways to prevent gerrymandering—in this case by removing redistricting from the hands of legislators—can help attain representation for those minority voices.

Gelman and King's (1987) development of a method to quantify partisan symmetry gives legislators, officials, and pundits an objective way to measure what was once only theoretical and subjective. Definitions of fairness ranging from “voters choosing their legislators” or “I’ll know it when I see it” can now be quantified with measurements of partisan symmetry and bias. Furthermore, past methods for ensuring fair electoral procedures—such as the Voting Rights Act and state constitutional provisions for traditional districting principles—can be evaluated using an objective standard. This dissertation can be viewed as one step towards that goal.

By quantifying fairness in several states over a ten-year period, this research shows that fair elections have consistently “good” consequences in terms of electoral competition. Government reformers have long listed competitive elections among their highest priority public policy goals—and for good reason. Researchers have found that, in addition to its effects on representation, competition has many other positive consequences, including: liberty, equality and accountability, community concerns and constitutionality. The North Carolina Coalition for Lobbying and Government Reform notes,

“Vigorous partisan abuse has characterized the redistricting process [in North Carolina] and lawmakers have used their power to ensure that most seats are safe, incumbents are practically guaranteed winners long before Election Day, and opposition candidates rarely run because of the impossibility of winning” (2011). Competition is necessary to keep American politics vibrant, responsive, and democratic.

A recent article in *Governing* asks, “Can Redistricting Ever Be Fair?” (Greenblatt 2011). The article doesn’t ultimately answer the question, but Greenblatt’s list of the consequences of legislative redistricting provides insight into what absence of fairness looks like: incumbents’ trading of votes and favors in exchange for safe seats, very high levels of incumbency reelection, no turnover between political parties, and numerous seats where no competition between major parties exist. Procedural fairness—i.e. an attempt to limit these types of political abuses—is a good goal in and of itself. Adam Cox notes that partisan fairness is “a normative commitment that both scholars and the Supreme Court have identified as a central concern of districting arrangements.” This measurement of fairness incorporates principles—such as representation and consent—that can be traced to the beginning of democratic elections. These principles ensure that democratic elections abide by the rule of law and reflect the real preferences of voters in a predictable, systematic, and unbiased manner.

California is one state that has made recent attempts to remove partisanship from the redistricting process by creating an independent redistricting commission. Their process differs from that of the states examined in

this dissertation and merits future examination. The new California law, adopted by referendum in 2008, mandates that members of the redistricting commission and their immediate family members can't have run as candidates within the past 10 years or have served on party committees. Anyone who has worked as a lobbyist or given sizable campaign contributions is also prohibited from serving on the commission. The California state auditor narrowed down a list of thousands of applicants to a pool of 60 possible commissioners: 20 Republicans, 20 Democrats and 20 independents. Legislative leaders from both parties then eliminated several people from contention—cutting the number of finalists to 36. From that list, eight names were randomly selected. They, in turn, chose six more of their colleagues, resulting in a commission made up of five Democrats, five Republicans and four unaffiliated voters.

The commission is tasked with drawing district lines “in conformity with strict, nonpartisan rules designed to create districts of relatively equal population that will provide fair representation for all Californians” according to the Commission’s website. Using the Gelman-King method to measure the partisan symmetry of districts drawn by the resulting commission—and comparing the results to the 10 states I have already evaluated—would show whether California has been successful in eliminating partisan interests from the redistricting process.

Florida is trying a different approach. In 2011, Florida voters approved a measure intended to prevent legislators from drawing maps with the intention of favoring one party or the other. However, the law fails to define this concept or

what measurable results will look like. As of this writing, Florida legislators have not released 2012 maps, so it is not clear what the new guidelines will mean to voters. Using partisan symmetry as a way to evaluate the maps might be a possible solution.

NORTH CAROLINA PUBLIC POLICY IMPLICATIONS

Establishing a significant relationship between redistricting bodies, partisan symmetry, and competition will help proponents of electoral reform in North Carolina and other states by giving them empirical evidence to support their proposals. This research establishes the effectiveness of reforms that remove redistricting from the hands of legislators.

Recent events in Raleigh highlight the need for redistricting reform in North Carolina. In the 2010 midterm elections, Republicans won control of both houses of the North Carolina General Assembly for the first time in nearly 100 years. After years of Republican lobbying for redistricting reform, voters were optimistic that North Carolina's elections would finally change as a result of the new leadership. So far, however, new leadership has taken only small steps towards reform—and only after new maps for 2012-2020 elections were completed.

Critics allege that new Republican-drawn congressional and legislative maps violate both the Voting Rights Act and North Carolina's whole county provision. Two lawsuits challenging the new GOP districts were filed in late 2011. The first lawsuit challenges the Republican maps on three main grounds: split

precincts, split counties, and the packing of minority voters. In filing the lawsuit, Democrats issued a press release that highlighted these statistics:

“The state House redistricting plan divides 49 of North Carolina’s 100 counties, while the state senate plan splits 19 counties, despite provisions in the N.C. Constitution requiring counties to remain whole to the greatest extent possible. Forty counties were arbitrarily split in the congressional map. Additionally, 395 precincts (containing nearly 1.9 million people) at the state House level and 257 precincts (containing 1.3 million people) at the state Senate level were split. This splitting of precincts often leads to voter confusion, lower voter turnout and higher election costs” (North Carolina Democratic Party, 2011).

Based on party registration and ideological preferences, reformers have said that North Carolina's congressional delegation ought to be divided fairly evenly. Before the 2010 election, however, Democrats held an 8-5 edge in the congressional delegation. Based on the maps drawn by today's GOP-led General Assembly, it's possible that Republicans could take 10 of the state's congressional districts while Democrats could not lose any of the remaining three. It's likely that such districts would yield very high levels of partisan bias. And if voters in 2012 vote as predicted, the seats-votes curves for North Carolina will be wildly skewed towards the Republican Party.

Despite approval from the U.S. Justice Department of North Carolina’s legislative and congressional maps as they apply to the 40 VRA covered counties, civil rights and election watchdog groups filed a second legal challenge. The plaintiffs allege the Republican boundaries are an "intentional and cynical

use of race" to harm black voters while improving Republicans' political prospects (Robertson 2011).

Republicans created the controversial "majority-minority" election districts allegedly in response to the Supreme Court's decision in *Bartlett v. Strickland*, a case that began with a dispute over N.C. House districts in Pender County. When Pender County filed suit in 2007, its commissioners objected to the then-Democratic General Assembly's decision to split both Pender and New Hanover Counties to create two House districts. Both districts included portions of Pender and New Hanover counties.

Specific objections focused on District 18, which Democratic mapmakers crafted as a Voting Rights Act district designed to help black voters elect a representative of their choosing. The majority of registered voters were Democrats, but less than 40 percent of those voters were black. The N.C. Supreme Court rejected the district by a 4-2 vote in August 2007 on the grounds that the district did not meet VRA requirements because it did not have a majority-black population. Because the state should not have counted District 18 as a VRA district, they found, mapmakers should have followed another court-ordered criterion blocking the unnecessary splitting of counties. In 2009, the U.S. Supreme Court agreed, spelling out the requirement that a VRA district under Section 2 must have a minority population of at least 50 percent.

Now, plaintiffs in the new lawsuit claim that Republicans used the *Strickland* ruling to pack majority-minority districts with black, Democratic voters in order to increase the likelihood of electing more Republicans in surrounding

districts. Nine of the districts in the 2011 N.C. Senate map qualified as majority-minority districts, up from seven before redistricting. The 2011 N.C. House plan created 23 majority-minority districts, up considerably from the previous maps.

Republicans' new maps and the subsequent court challenges continue a pattern of gerrymandering allegations, partisan squabbling, and abuse of the public trust. Two possible reforms provide possible escapes from this kind of business-as-usual redistricting. Neither bill gained traction until after 2011 redistricting plans were completed. This means any possible reforms would not take effect until 2021 redistricting.

A bipartisan bill filed in April 2011 would create an independent citizens commission to oversee the redistricting process in North Carolina. Cosponsored by Sen. Ellie Kinnaird (D-Orange, Person) and Sen. Louis Pate (R-Greene, Pitt, Wayne), Senate Bill 591 ("Horton Independent Redistricting Comm.") would create a redistricting commission comprised of North Carolina citizens. Elected officials and lobbyists, along with legislative and campaign staff, would be barred from serving on the commission. Although the bill stalled in committee, it was a first step towards change in North Carolina.

Another bill has had more success. The N.C. House of Representatives passed a redistricting reform bill on June 9, 2011 that would significantly improve the redistricting process for the next round of redistricting beginning in 2020.

House Bill 824, titled "Nonpartisan Redistricting Process," (2011) would remove the power of drawing new district lines from the members of the General Assembly and turn that power over to nonpartisan staff from the Legislative

Services Office. These staff members would be sequestered from the House and Senate to create new redistricting plans without personal or partisan political influences.

H824 is modeled after the process Iowa uses for redistricting, which has not had any redistricting lawsuits filed since its implementation. Like the Iowa system, after the Legislative Services Office has prepared new district maps they would be presented to the House and Senate for an up or down vote without changes. The N.C. Senate will vote on the bill in 2012. This dissertation bolsters proponents' arguments for passing such a bill.

Another possible change to North Carolina's redistricting process could be for legislators to revive 2005 proposals to use quantitative measures to evaluate districts before they are approved. A bill to reform redistricting in 2005 would have created a "total quality score" for proposed districts, using Reock quotients as one of the components:

"The total quality score for each proposed redistricting plan shall be computed as the sum of three component scores, each of which is chosen to achieve a particular goal. The three goals are: compactness; one person, one vote; and minimizing the number of split counties, municipalities, and precincts: (a) The goal of compactness is to avoid elongated and irregular districts. The component score which quantifies this goal shall be the Reock quotient for the plan. The 'Reock quotient for the plan' means the average of the Reock quotients for each proposed district in the plan. The Reock quotient for a district is the area of the

district divided by the area of the smallest possible enclosing circle, a number between 0 and 1" (2005, S997).

Although the bill has not been reintroduced in the current session, it sets the groundwork for possibly using partisan symmetry as part of a quality score in the future. King and Grofman have campaigned to have partisan symmetry scores used as the officially recognized Court standard for measuring gerrymandering, pursuant to *Vieth v. Jubilerer*, in which five justices concluded that some standard might be adopted in a future case. When gerrymandering came before the Court in *LULAC v. Perry*, King et al. (2005) filed an Amicus Brief proposing the test be based in part on the partisan symmetry standard. Although the issue was not resolved, the proposal was discussed and positively evaluated; the Court gave some indication that a future legal test for partisan gerrymandering will likely include partisan symmetry. (Of the 11 states in which commissions have primary responsibility for drawing maps—Arizona, Arkansas, California, Idaho, Missouri, Montana, New Jersey, Ohio, Pennsylvania, Washington, and Wyoming—none currently use partisan symmetry as a standard for evaluation.) This dissertation contributes to the evidence that using partisan symmetry as a standard could meaningfully affect electoral outcomes.

There are considerable data confirming that defining quantitative measures for districting principles helps to avoid confusion and corruption. Reock suggested his scores could be used to measured compactness in order for states to have an objective and reliable measure (1961). Of the many state laws that require compactness in redistricting, some fail to define or specify how compactness is determined. In states that fail to define compactness, there has

been a considerable amount of difficulty in determining whether the ultimate map is, in fact, compact. Creating standards for definition and measurement in the case of compactness could have prevented such difficulties.

Like partisan symmetry, compactness has been recognized by the Supreme Court in several cases, with the Court expressly noting that “compactness does have to be one of [redistricting’s] primary goals.” Using partisan symmetry as a standard by which maps must be measured prior to adoption could prevent wasted money and time litigating maps and could improve the fairness and predictability of electoral outcomes.

CONCLUSION

In sum, this dissertation makes important contributions to political science literature on redistricting, government reformers’ normative goals, and potentially to public policy. Redistricting, electoral fairness, and electoral competitions are all key pieces to ensuring accurate, equal representation for all citizens. A clear understanding of these issues is essential to a thriving democracy and to honest and open government.

My research also points to a possible solution for the perennial problem of gerrymandering and the negative effects that accompany it: decreased turnout, ugly lawsuits, partisan infighting, decreased public trust, and low levels of representation. This is an important and timely contribution to political science knowledge and to the ongoing public policy debate in North Carolina and around the country.

APPENDIX A: STATE LEGISLATIVE COURT CHALLENGES 1992-2008 (Source:
National Conference of State Legislatures 2012)

ALABAMA

- *Barnett v. Alabama*, No. Civ.A. 01-0433 (S.D. Ala. Nov. 7, 2001) (three-judge court): Plaintiffs challenged the Legislature's failure to re-draw the Alabama House and Senate districts following the 2000 census. The Legislature passed plans that were approved by the governor on July 3, 2001. When those plans were precleared in October and November 2001, the district court dismissed the complaint as moot.
- *Montiel v. Davis*, No. Civ.A. 01-0447-BH-S, 215 F. Supp.2d 1279 (S.D. Ala. Jul. 8, 2002) (three-judge court): On June 21, 2001, plaintiffs brought suit because the Alabama Legislature had not yet drawn new (post-2000 census) districts for the Legislature, Congress, and State Board of Education. 215 F. Supp.2d at 1282 n.2. After the Legislature drew the House and Senate districts, the plaintiffs amended their complaint to challenge those districts. *Id.* Plaintiffs alleged that the districts violated the one-man, one-vote principles found in the federal Equal Protection Clause and were the result of unconstitutional racial gerrymandering. *Id.* at 1284-88. The Board of Education claims and Congressional districts claims were severed. *Id.* at 1282 n.2. *See also Barnett v. Alabama*, 171 F. Supp.2d 1292 (S.D. Ala. Nov. 20, 2001) (severing and transferring the Congressional district claim). As to the state legislative districts, the Court granted summary judgment in favor of the defendants. On the one-man,

one-vote challenge, the Court said that an overall deviation of less than ten percent from the “ideal district” was entitled to a rebuttable presumption of constitutionality. Plaintiffs failed to provide evidence to overcome that presumption. *Id.* at 1284-86. As to the racial gerrymander claim, the court explained that strict scrutiny is only triggered for application to a facially neutral law when the plaintiff “establish[es] that the ‘legislature subordinated traditional race-neutral districting principles.’” 215 F. Supp.2d at 1287 *quoting Hunt v. Cromartie*, 526 U.S. 541 (1999). Plaintiffs failed to provide any evidence to trigger strict scrutiny review, so their claim failed.

- *Webb v. Alabama*, No. CV-01-1964 (Cir. Ct. Montgomery Co. Jan. 2002): On July 2, 2001, plaintiff sought a declaratory judgment that the redistricting plans passed by the Legislature were constitutional. The defendants filed a motion seeking entry of judgment on the pleadings or, in the alternative, summary judgment on the ground that the complaint failed to state a justiciable controversy; the parties were in agreement that the redistricting plans were constitutional. In January 2002, a joint motion to dismiss was filed and the case was dismissed.
- *Ex parte Rice*, No. 1010125 (Ala. Nov. 8, 2001): In October 2001, John and Camilla Rice filed a petition for writ of prohibition, mandamus, or other extraordinary relief in the Alabama Supreme Court to prevent *Webb* from proceeding in the Montgomery Circuit Court until the Alabama Supreme

Court had ruled on the appeal in *Sinkfield* (a case relating to Congressional districts). In November, the Court denied the writ.

- *Gustafson v. Johns*, No. 05-00352-CG-C, 434 F. Supp.2d 1246 (S.D. Ala. May, 22, 2006) (three-judge court), *aff'd* No. 06-13508, 213 Fed.Appx. 872 (11th Cir. Jan. 9, 2007) (unpublished): On June 16, 2005, plaintiffs challenged the Alabama House and Senate redistricting. The 19 voters alleged that the redistricting plans violated the one-person, one vote standard, were partisan gerrymanders, and violated plaintiffs' First Amendment right to freedom of association. The district court held that *res judicata* barred the litigation as the present plaintiffs "were virtually represented by prior plaintiffs." 434 F. Supp.2d at 1254.
- *Gustafson v. Johns*, No. 06-13508, 213 Fed.Appx. 872 (11th Cir. Jan. 9, 2007): The first issue before the Eleventh Circuit was whether the appeal from the three-judge court was properly before it, or whether that appeal properly belonged in the United States Supreme Court. The Eleventh Circuit concluded that it had jurisdiction because "a finding that a plaintiff's claim is barred by *res judicata* is not a resolution on the merits of the constitutional claim." 231 Fed. Appx. at 875, relying on *MTM, Inc. v. Baxley*, 420 U.S. 799 (1975). The Eleventh Circuit affirmed the district court's holding that *res judicata* barred the litigation on a theory labeled "virtual representation."

No challenges.

IOWA

- *Brown v. Iowa Legislative Council*, 490 N.W.2d 551 (Iowa 1992): The Iowa Supreme Court upheld the decision of a state district court that the Legislative Council was not required to provide to a citizen taxpayer associated with an organization called Iowans against Gerrymandering access to geographic, political, and population databases created by the Iowa Legislature's redistricting software and database vendor, Election Data Services, Inc. The databases were created for and purchased by the General Assembly for use in legislative redistricting and the computer program developed by the vendor interrelated the different forms and sources of information. The database was encrypted, or coded, as required by contract with the original creator of the software. The information or raw data used in the databases was public information and was otherwise available to the plaintiff. The Supreme Court held that the computer databases were a trade secret of the vendor who prepared them.

MISSISSIPPI

- *Barbour v. Gunn*, No. 2003-EC-02169-SCT, 890 So.2d. 843 (Miss. Apr. 8, 2004): The Mississippi Supreme Court was faced with a problem of resolving an ambiguity in the redistricting resolution that created the

House Districts, Joint Resolution No. 1 of the 2002 Regular Session. The issue was whether all of precinct 4 in Clinton, Mississippi was to be included in House District 72, as set forth in the resolution, or whether part of precinct 4 should have been included in House District 56, as shown by the Census 2000 maps that were incorporated by reference into the resolution. The Court concluded that the redistricting resolution provided for resolving these issues by making the boundaries used in the Census 2000 maps controlling. It affirmed the decision of the trial court that found part of precinct 4 to be included in House District 56 and ordered a revote in that part of District 56. With the additional voters, the result of the election was reversed.

NEW JERSEY

- *Page v. Bartels*, No. 01-1733, 144 F. Supp.2d 346, 2001 WL 505187 (D. N.J. May 4, 2001): Plaintiffs sought to enjoin implementation of a legislative redistricting plan adopted by the New Jersey Apportionment Commission on April 11, 2001. They alleged that the plan violated § 2 of the Voting Rights Act and the 14th and 15th Amendments to the U.S. Constitution because it reduced the concentration of African American voters in three legislative districts with an intent to dilute their voting strength. Defendants countered that the plan, while reducing the concentration of African Americans to less than a majority of the voting age population in the three districts, also increased the concentration of

African Americans in a fourth district, thus giving them an effective voting majority in all four districts, because both Hispanics and Whites often voted for African American candidates. The three-judge court found for the defendants, finding that the plan drafters had not intended to discriminate against African Americans and that the plan did not have the effect of diluting their voting strength. Rather, it likely would increase by one the number of African Americans elected to the Legislature from the four districts.

- *Robertson v. Bartels*, 148 F. Supp. 2d 443 (D.N.J. 2001), *aff'd* 1110 (Jan. 22, 2002) (No. 01-721) (mem.): A white Republican state senator whose district was redrawn to raise its Black voting age population from 3.9 percent to 35.3 percent alleged that the New Jersey Apportionment Commission had violated the Equal Protection Clause by protecting all minority incumbents but not all white incumbents. A three-judge panel granted summary judgment for defendants on the basis of *res judicata*. Although neither all the plaintiffs nor all the arguments were the same as in *Page v. Bartels*, the court found that the *Robertson* plaintiffs were in privity with the *Page* plaintiffs and their interests had been adequately represented by the *Page* plaintiffs.
- *McNeil v. Legislative Apportionment Commission*, No. M-728, September Term 2002, 54,209 (N.J. Mar. 6, 2003): On January 22, 2003, the Superior Court Appellate Division had stuck down the legislative plan because it violated article IV, § 2, of the New Jersey Constitution by dividing Newark

and Jersey City each into three legislative districts. On March 6, the New Jersey Supreme Court stayed the decision of the Appellate Division pending appeal, observing that the two cities had each been divided into at least three legislative districts ever since the constitutional prohibition had been adopted nearly 40 years before. The stay permitted the 2003 elections to be run under the same plan as the 2001 election.

- *McNeil v. Legislative Apportionment Commission*, No. A-73, September Term 2002, (N.J. July 31, 2003): On appeal, the New Jersey Supreme Court held that the New Jersey Constitution's political boundary requirement may not be validly enforced with respect to Newark and Jersey City without violating the Voting Rights Act. To pack all of Newark and Jersey City residents into two districts each after nearly 40 years of having three districts each, thereby reducing the Senators and Assembly persons representing them by one-third, would result in vote dilution in violation of § 2 of the Voting Rights Act. The Supreme Court also observed that the complaint could have been precluded under *res judicata* by the results of the earlier cases of *Page v. Bartels* and *Robertson v. Bartels*, since the *McNeil* plaintiffs either were plaintiffs in *Page* or were in privity with them, they sought the same relief invalidating the *Bartels* plan, and their state-law claim should have been raised in the same suit as their federal law claims under the doctrine of pendent (or "supplemental") jurisdiction. It reversed the judgment of the Appellate Division and reinstated the judgment of the trial court dismissing the complaint.

NEW YORK

- *Fund for Accurate and Informed Representation, Inc. v. Weprin*, 796 F. Supp. 662 (N.D. N.Y. 1992) (per curiam) (assembly plan corrected; senate plan approved), *aff'd*, 113 S. Ct. 650 (1992) (mem.)
- *Wolpoff v. Cuomo*, Order, No. 14757-1922 (N.Y. Sup. Ct., Bronx County, May 14, 1992) (removed to federal court), 792 F. Supp. 964 (S.D. N.Y. 1992) (remanded to state court), Order, No. 14757-1922 (N.Y. Sup. Ct., Bronx County, June 12, 1992) (assembly and senate plans rejected), *rev'd*, 80 N.Y.2d 70, 587 N.Y.S.2d 560, 600 N.E.2d 191 (1992)
- *City of New York v. United States Department of Commerce*, 822 F. Supp. 906 (E.D. N.Y. 1993) (decision not to adjust census was not arbitrary or capricious) *vacated and remanded* 34 F.3d 1114 (2nd Cir. Aug. 8, 1994), *rev'd sub nom. Wisconsin v. City of New York*, 517 U.S. 1 (U.S. 1996) (decision not to adjust was reasonable and within secretary's discretion)

NORTH CAROLINA

- *Daly v. Leake*, (E.D. N.C., 2nd amended complaint filed Oct. 8, 1997) In July 1996, Jack Daly, a law student and Republican activist, and other plaintiffs filed a complaint against several congressional and legislative districts. They alleged racial gerrymanders under the Shaw doctrine. In October 1997, Daly amended his complaint to add plaintiffs with standing

to challenge six congressional districts, seven state Senate districts, and eight state House districts. Some of the challenged legislative districts were majority-minority districts whose minority percentages the State had increased in 1992 because first-round Section 5 preclearance had been denied. Others were overwhelmingly White districts surrounding those minority districts. A few others were majority-White districts not adjacent to minority districts. In those, Daly alleged that race was used as a proxy for party to create a partisan gerrymander. In April 1998, the same three-judge panel that had a week earlier granted injunctive relief in Cromartie denied a preliminary injunction in Daly. The Court noted that Daly had waited seven months after filing his complaint before serving it on the defendants and had waited another 13 months before filing a motion for a preliminary injunction. Moreover, the Court noted he had presented no evidence other than a memo from himself as an expert witness, without demonstrating why he was qualified to be one. Such a record, the Court said, did not entitle Daly to emergency relief.

- 2002-2008: Several cases. See Chapter 5.

OREGON

- *Ater v. Keisling*, 312 Or. 207, 819 P.2d 296 (1991) (secretary of state ordered to correct technical errors in house plan), *corrected house plan approved sub nom. Linder v. Keisling*, 312 Or. 316, 821 P.2d 1089 (1991)

- *Republican Party of Oregon v. Keisling*, 959 F.2d 144 (D. Or. 1992) (delayed election for senators with staggered terms approved), *cert. denied*, 504 U.S. 914 (1992)
- *Hartung v. Bradbury*, 332 Or. 570, 33 P.3d 972 (2001): Petitioners challenged a legislative plan prepared by the Secretary of State after the Legislature adjourned its regular session *sine die* without enacting one, following the Governor's veto of the plan passed by the Legislature. Exercising original jurisdiction, the Supreme Court, Riggs, J., held that: (1) the plan did not violate the "separate vote" requirement of the Oregon Constitution; (2) the Governor had the power to veto the Legislature's redistricting plan; (3) the Secretary of State's plan did not violate the constitutional provision that senate districts must consist of contiguous counties as limited by Fourteenth Amendment; (4) the secretary's population variance guidelines among districts met state and federal constitutional requirements; (5) the plan did not violate the statutory requirement that the secretary consider community of common interest in drawing boundaries; (6) the plan did not violate the statutory requirement that the secretary utilize political boundaries as nearly as practicable in drawing boundaries; and (7) the plan violated population equalization required by statute by using known incorrect census data. The court granted one petition and dismissed the remaining ones.
- *Carter v. U.S. Department of Commerce*, No. 02-35161 (9th Cir. Oct. 8, 2002): Plaintiff Oregon state legislators sought release of the adjusted

census data for 2000 under the Freedom of Information Act. The Census Bureau resisted, citing the “deliberative process” privilege. The district court found that the deliberative process privilege did not permit nondisclosure of the adjusted numbers because they were neither predecisional nor deliberative and ordered the Department of Commerce to release the adjusted data. The court of appeals affirmed.

RHODE ISLAND

- *Parella v. Irons*, No. 02-4578 (Providence Superior Ct. Oct. 8, 2003), *aff'd sub nom. Parella v. Montalbano*, No. 2003-595 (R.I. June 9, 2006): A 1994 amendment to the Rhode Island Constitution reduced the number of senators from 50 to 38 and the number of representatives from 100 to 75, effective for the members taking office in January 2003. The 2001 General Assembly created a Reapportionment Commission to recommend Senate, House, and congressional plans to the General Assembly, in accordance with standards of equal population, compactness, contiguity, communities of interest, and fair representation set forth in the law. 2001 R.I. Pub. Law ch. 315 (July 13, 2001). The 2002 General Assembly enacted legislative plans as 2002 R.I. Pub. Law ch. 4 (Feb. 20, 2002), coded as R.I. Gen. Laws 1956 § 22-1-2 (Senate districts) and § 22-2-2 (House districts). Plaintiffs residing in four Senate districts challenged the Senate plan as failing to meet the constitutional mandate that districts be “as compact in territory as possible.” R.I. Const. art. 8, § 1. They argued that their four

districts did not follow natural, historic, geographic, or political lines, as required by 2001 R.I. Pub. Law ch. 315, § 2. The trial court placed upon plaintiffs the burden of proving beyond a reasonable doubt that the statute violated the constitution, as would be appropriate in any case challenging the constitutionality of a statute. The trial court concluded that “[t]he compactness clause is violated ‘only when a reapportionment plan creates districts solely for political considerations, without reference to other policies, in such a manner that the plan demonstrates a complete abandonment of any attempt to draw equal, compact and contiguous districts.’” (quoting *Holmes v. Farmer*, 475 A.2d 976, 986 (R.I. 1984)). The trial court held that the plan did not violate the compactness requirement. On June 9, 2006, the Supreme Court of Rhode Island affirmed the judgment of the trial court.

WASHINGTON

No cases.

APPENDIX B: NC INTERVIEW QUESTIONS

Only names appearing in bold responded to interview requests.

1. Superior Court Judge Knox Jenkins
 - a. Explain your role in the NC redistricting cases.
 - b. Explain the maps you drew. Why did you make these specific changes to the NCGA map?
 - c. Do you think having an independent districting commission or more districting principles (like standards for compactness) would make NC elections fairer?
2. Plaintiffs in *Stephenson v. Bartlett*: ASHLEY STEPHENSON, LEO DAUGHTRY, **PATRICK BALLANTINE**, ART POPE, **BILL COBEY**
 - a. Explain your role in the *Stephenson v. Bartlett* case.
 - b. Why did you take part as a plaintiff?
 - c. What was the goal of the case?
 - d. Were Judge Jenkins' maps "fair"?
 - e. What should maps look like to be "fair"?
 - f. Do you think competitive elections are important? Why (or why not?)
 - g. What about an IRB, compactness?
3. Members, State Board of Elections during *Bartlett* case: GARY O. BARTLETT, LARRY LEAKE, **ROBERT B. CORDLE**, GENEVIEVE C. SIMS, LORRAINE G. SHINN, CHARLES WINFREE
 - a. Explain your role in the *Stephenson v. Bartlett* case.

- b. Do you think the maps drawn by Judge Knox Jenkins were “fair”?
 - c. Do you think having an independent districting commission or more districting principles (like standards for compactness) would make NC elections fairer?
 - d. Do you think competitive elections are important? Why (or why not?)
- 4. Former Chief Justice I. Beverly Lake, who presided over *Stephenson v. Bartlett*, 357 NC 301 (94PA02-2) 07/16/2003
 - a. Explain your role in the NC redistricting cases.
 - b. Do you think having an independent districting commission or more districting principles (like standards for compactness) would make NC elections fairer?
- 5. NC Senator ANDREW BROCK (R-, sponsor of “AN ACT TO AMEND THE CONSTITUTION TO REFORM LEGISLATIVE AND CONGRESSIONAL REDISTRICTING”)
 - a. What is the goal of this legislation?
 - b. Why do you think districts should be compact?
 - c. Do you think North Carolina’s general assembly elections are “fair?”
 - d. What should maps look like to be “fair”?
 - e. Other members of the NCGA think an independent districting commission would be a better way to ensure fair elections. What do you think of that plan?
 - f. Who opposed your bill? What were their reasons?

6. NC Senator **PETER S. BRUNSTETTER** (R-Forsyth), sponsor of “AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO ESTABLISH HAMILTON C. HORTON INDEPENDENT REDISTRICTING COMMISSION.”

- a. What is the goal of this legislation?
- b. Do you think North Carolina’s general assembly elections are fair?
- c. What should maps look like to be “fair”?
- d. Other members of the NCGA think that standards to enforce compact districts would be a better way to ensure fair elections.

What do you think of that plan?

- e. Who is the opposition to your bill? What are their reasons?

7. Capital Reporters, **MITCH KOKAI** (News 14 Carolina), **BARRY SMITH** (Freedom Communications), Josh Ellis (New & Observer); and Local Pundits: **JOHN HOOD** and Chris Fitzsimon

- a. What is your take on the *Stephenson v. Bartlett* case?
- b. Which maps do you think are more fair, Knox Jenkins’ or the General Assembly’s?
- c. What should maps look like to be “fair”?
- d. Do you think competitive elections are important?
- e. Do you think having an independent districting commission or more districting principles (like standards for compactness) would make NC elections fairer?

BIBLIOGRAPHY

- "About Section 5 of the Voting Rights Act". U.S. Department of Justice.
http://www.justice.gov/crt/voting/sec_5/about.php. Retrieved 2010-07-28.
- Aistrup, Joseph A. 1993. "State Legislative Party Competition: A County-Level Measure." *Political Research Quarterly* 46:433-446.
- Abramowitz, Alan 1.1983. "Partisan Redistricting and the 1982 Congressional Elections." *Journal of Politics* 45:767-70.
- Altman, Micah. 1998. "Traditional Districting Principles: Myth vs. Reality." *Social Science History* 22: 159-200.
- Altman, Michael, Karin MacDonald, and Michael P. McDonald. 2005. "From Crayons to Computers: The Evolution of Computer Use in Redistricting." *Social Science Computer Review* 23:334-346
- Aristotle. "The Athenian Constitution"
http://classics.mit.edu/Aristotle/athenian_const.html Trans. Sir Frederic G. Kenyon. (accessed December 7, 2010).
- Associated Press. November 5, 2001. "House Redistricting Fight Likely Not Over." *The Lexington Dispatch*.
- Associated Press. December 6, 2001. "Lawmakers Tweak Congressional Map." *The Mount Airy News*.
- Associated Press. May 19, 2002. "House, Senate Beat Court Deadline for Redistricting." *Mount Airy News*.
- Baker v. Carr*, 369 U.S. 186 (1962)
<http://supreme.justia.com/us/369/186/case.html> (accessed 4/1/11)
- Balinski, Michel L., and H. Peyton Young. 1982. *Fair Representation: Meeting the Ideal of One Man, One Vote*. New Haven: Yale University Press.
- Ballotpedia. 2012. "Redistricting in Arizona."
http://ballotpedia.org/wiki/index.php/Redistricting_in_Arizona
- Barrilleaux, Charles J. 1986. "A Dynamic Model of Partisan Competition in the American States." *American Journal of Political Science* 30:822-40.
- Berry, William D., Michael D. Beckman, and Stuart Schneiderman. 2000. "Legislative Professionalism and Incumbent Reelection: The Development of Institutional Boundaries." *American Political Science Review* 94:859-74.

- Bishop, Bill. 2008. *The Big Sort*. New York: Houghton Mifflin.
- Bond, Jon R. 1983. "The Influence of Constituency Diversity on Electoral Competition in Voting for Congress, 1974–1978." *Legislative Studies Quarterly* 8:201–17.
- Bonner, Lynn. May 23, 2002. "Redistricting hearing, Legislators testify about constitutionality of new boundaries." *Raleigh News & Observer*.
- Born, Richard. 1984. "Reassessing the Decline of Presidential Coattails: U.S. House Elections from 1952–80." *Journal of Politics* 46:60–79.
- Born, Richard. 1985. "Partisan Intentions and Election Day Realities in the Congressional Redistricting Process." *American Political Science Review* 79:305–19.
- Breaux, David, and Malcolm Jewell. 1992. "Winning Big: The Incumbency Advantage in State Legislative Races." In *Changing Patterns in State Legislative Careers*, ed. Gary F. Moncrief and Joel A. Thompson. Ann Arbor: University of Michigan Press.
- Brunell, Thomas. 2008. *Redistricting and Representation: Why Competitive Elections are Bad for America*. New York: Routledge.
- Buchman, J. 2003. *Drawing lines in the quicksand*. New York: Peter Lang.
- Bushman, Donald O. and William R. Stanley. 1971. "State Senate Reapportionment in the Southeast." *Annals of the Association of American Geographers* 61:654–670.
- Buck, Kelly. 2008. Centrists.Org - Iowa's Redistricting Process: An Example of the Right Way to Draw Legislative Districts.
- Burke, Edmund. 1854. *The Works of the Right Honourable Edmund Burke. Volume I* (London: Henry G. Bohn, 1854), pp. 446–8.
- Butler, David, and Bruce Cain. 1992. *Congressional Redistricting: Comparative and Theoretical Perspectives*. New York: Macmillan.
- Cain, Bruce. 1985. "Assessing the Partisan Effects of Redistricting." *American Political Science Review* 79:320–33.
- Caldeira, Gregory A., and Samuel C. Patterson. 1982. "Bringing Home the Votes: Electoral Outcomes in State Legislative Races." *Political Behavior* 4:33–67.

- Campbell, James E. 1986. "Predicting Seat Gains from Presidential Coattails." *American Journal of Political Science* 30:165–83.
- Carson, J. and Crespín, M. H. 2004 "Comparing the Effects of Legislative, Commission, and Judicial Redistricting Plans on U.S. House Elections, 1972-2002." *State Politics and Policy Quarterly*, 4:455-469
- Center for Responsive Politics. "Reelection Rates Over the Years." <http://www.opensecrets.org/bigpicture/reelect.php> (Accessed December 1, 2010).
- The Center for Voting and Democracy. <http://www.fairvote.org/redistricting> (accessed December 21, 2010).
- Chubb, John E. 1988. "Institutions, the Economy, and the Dynamics of State Elections." *American Political Science Review* 82: 133-54.
- City of Mobile v. Bolden*, 446 U.S. 55 (1980) <http://supreme.justia.com/us/446/55/> (accessed 4/1/11)
- Cox, Adam B., Partisan Fairness and Redistricting Politics. 2004. *New York University Law Review*, Vol. 70, No. 3.
- Cox, Gary W., and Jonathan N. Katz. 2002. *Elbridge Gerry's Salamander: The Electoral Consequences of the Reapportionment Revolution*. New York: Cambridge University Press.
- Cox, Gary W., and Scott Morgenstern. 1993. "The Increasing Advantage of Incumbency in the American States." *Legislative Studies Quarterly* 18:495–514.
- Cox, Gary W., and Michael C. Munger. 1989. "Closeness, Expenditures, and Turnout in the 1982 U.S. House Elections." *American Political Science Review* 83: 217–31.
- Dahl, Robert A. 1956. *A Preface to Democratic Theory*. Chicago: University of Chicago Press.
- Dail, Thomas. October 24, 2001. "Redistricting Gets by 1st Vote." *The Jacksonville Daily News*
- Davis v. Bandemer*, 478 U. S. 109 (1986) <http://supreme.justia.com/us/478/109/> (accessed 4/1/11)

- Dawson, Richard and James Robinson. 1963. "Inter-Party Competition, Economic Variables, and Welfare Policies in the American States." *Journal of Politics* 25:265-89.
- Dixon, Robert G., Jr. 1968. *Democratic Representation: Reapportionment in Law and Politics*. New York: Oxford University Press.
- Downs, Anthony. 1957. *An Economic Theory of Democracy*. New York: Harper.
- Dyckman, Martin. 2003. "In Florida, We Don't Choose Our Legislators, They Choose Us." *St. Petersburg Times*. October 12: D3.
- Elazar, Daniel J. 1972 (2nd edition). *American Federalism: A view from the States*. New York: Thomas Y. Crowell.
- Engstrom, Richard L. 2009. "Partisan Gerrymandering and State Legislative Districts." *Election Law Journal* 8:223-228.
- Erikson, Robert S. 1971. "The partisan impact of state legislative reapportionment." *Midwest Journal of Political Science* 15: 57-71.
- Farrand, Max. 1911. *The Records of the Federal Convention of 1787*. New Haven: Yale University Press.
- Fenno, Richard F. 1978. *Home Style: House Members in Their Districts*. Boston, Mass.: Little, Brown.
- Ferejohn, John. 1977. "On the Decline of Competition in Congressional Elections." *American Political Science Review* 71:166-76.
- Fiorina, Morris P. 1974. *Representatives, Roll Calls, and Constituencies*. Lexington, MA: Lexington Books.
- Fiorina, Morris P. 1994. "Divided Government in the American States: A Byproduct of Legislative Professionalism?" *American Political Science Review* 88:304-16.
- Fitzsimon, Chris. November 1, 2006. "N.C. needs redistricting commission." <http://www.ncpolicywatch.com/2006/11/01/nc-needs-redistricting-commission/> (Accessed October 10, 2011)
- Fund, John H. 2003. "Gerry-rigged democracy." *American Spectator*, 36(3), 14-15.
- Gaines, Brian. "On Partisan Fairness" www.heartland.org/full/8657/On_Partisan_Fairness.html (accessed

December 16, 2010).

- Garand, James C. 1991. "Electoral Marginality in State Legislative Elections, 1968- 1986." *Legislative Studies Quarterly* 16:7-28.
- Garand, James C., and Donald A. Gross. 1984. "Trends in the Vote Margins for Congressional Candidates: A Specification of Historical Trends." *American Political Science Review* 78:17–31.
- Gelman, Andrew, and Gary King. 1990. "Estimating the Electoral Consequences of Legislative Redistricting." *Journal of the American Statistical Association* 85:274-82.
- Gelman, Andrew, and Gary King. 1994a "Enhancing Democracy Through Legislative Redistricting." *American Political Science Review* 88: 541-559.
- Gelman, Andrew, and Gary King 1994b. "A Unified Method of Evaluating Electoral Systems and Redistricting Plans." *American Journal of Political Science*, Vol. 38, No. 2, May 1994, Pp. 514-54
- Gierzynski, Anthony and David Breaux. 1991. "Money and Votes in State Legislative Elections." *Legislative Studies Quarterly* 16:203-217
- Giles, Michael W., and Anita Pritchard. 1985. "Campaign Spending and Legislative Elections in Florida." *Legislative Studies Quarterly* 10:71–88.
- Greenblatt, Alan. 2011. "Can Redistricting Ever Be Fair?" *Governing*. November 2011.
- Greenwood, Ellie. 1998. "Focus on Direct Democracy." <http://aceproject.org/ace-en/focus/direct-democracy/onePage>
- Grofman, Bernard, and Gary King. 2008. "The Future of Partisan Symmetry as a Judicial Test for Partisan Gerrymandering after LULAC v. Perry." *Election Law Journal*. 6(1): 2-35.
- Grofman, Bernard N., Arend Lijphart, Robert B. McKay, and Howard A. Scarrow. 1982. *Representation and Redistricting Issues*. Lexington, MA: D.C. Heath.
- "Hamilton Horton Independent Redistricting Commission." 2011. <http://www.ncleg.net/gascritps/BillLookUp/BillLookUp.pl?Session=2011&BillID=S591>

- Hamilton, Howard. 1967. "Legislative constituencies: single-member districts, multi-member districts, and floterial districts." *Western Political Quarterly* 20: 321-340.
- Hay, A.M. and D. Rumley. 1984. "On Testing for Structural Effects in Electoral Geography, Using Entropy-maximizing Methods for Estimate Voting Patterns." *Environment and Planning*: A16:233-40.
- Hignett, Charles. 1962. *A History of the Athenian Constitution*. Oxford.
- Hirsch, Sam. 2003. "The United States House of Unrepresentatives: What Went Wrong in the Latest Round of Congressional Redistricting." *Election Law Journal* 2:179-216.
- Hobbes, Thomas. *Leviathan*. London: Penguin Classics, 1982.
- Hofferbert, Richard I. 1964. "Classification of American State Party Systems." *Journal of Politics* 26: 550-67.
- Hogan, Robert E. 2003. Institutional and District-Level Sources of Competition in State Legislative Elections. *Social Science Quarterly* 84:543-560.
- Holbrook, Thomas M., and Charles M. Tidmarch. 1991. "Sophomore Surge in State Legislative Elections, 1968–1986." *Legislative Studies Quarterly* 16:49–63.
- Holbrook, Thomas M., and Emily Van Dunk. 1993. "Electoral Competition in the American States." *American Political Science Review* 87:955-62.
- Hunt v. Cromartie*, 526 U.S. 541 (1999)
<http://supreme.justia.com/us/526/541/case.html> (accessed 4/1/11)
- Isscharoff, Samuel. 2002. "Gerrymandering and Political Cartels." *Harvard Law Review* 116: 593–648.
- Jacobellis v. Ohio* 378 U.S. 184 (1964)
<http://supreme.justia.com/us/378/184/case.html> (accessed 4/1/11)
- Jacobson, Gary. 1978. "The Effects of Campaign Spending in Congressional Elections." *American Political Science Review* 72:469–91.
- Jacobson, Gary C. 1990. *The Electoral Origin of Divided Government*. Boulder, CO: Westview Press.
- Jacobson, Gary C., and Samuel Kernell. 1981. *Strategy and Choice in Congressional Elections*. New Haven, CT: Yale University Press.

- Jefferson, Thomas. "The Declaration of Independence"
<http://www.archives.gov/exhibits/charters/declaration.html> (accessed December 7, 2010).
- Jewell, Malcolm E. 1969. "Metropolitan Representation: State Legislative Districting in Urban Counties." *National Municipal League*.
- Jewell, Malcolm E., and David Breaux. 1988. "The Effect of Incumbency on State Legislative Elections." *Legislative Studies Quarterly* 13 :495-514.
- Johnston, R.J. 1982. "Redistricting by Independent Commissions: A Perspective from Britain," *Annals of the Association of American Geographers*, 72:457-470.
- Karlan, P. (1998). The fire next time: Reapportionment after the 2000 census. *Stanford Law Review*, 50, 731-763.
- Kendall, M. G., and A. Stuart. 1950. The Law of Cubic Proportion in Election Results. *British Journal of Sociology* 1383-97.
- Key, V.O., Jr. 1956. *American State Politics: An Introduction*. New York: Knopf.
- King, Gary. 2011. <http://gking.harvard.edu/projects/red.shtml>
- King, Gary, and Robert X. Browning. 1987. "Democratic Representation and Partisan Bias in Congressional Elections." *American Political Science Review*. 81: 1251-1273.
- King, Gary, and Lyn Ragsdale. 1987. *The Elusive Executive: Discovering Statistical Patterns in the Presidency*. Washington: Congressional Quarterly.
- Koetzle, William. 1998. "The Impact of Constituency Diversity Upon the Competitiveness of U.S. House Elections, 1962–1996." *Legislative Studies Quarterly* 23:561–73.
- Krehbiel, Keith. 1998. *Pivotal Politics: A Theory of U.S. Lawmaking*. Chicago: University of Chicago Press.
- League of United Latin American Citizens v. Perry*, 548 U. S. 399 (2006)
<http://supreme.justia.com/us/548/05-204/cdinpart5.html> (accessed 4/1/11)
- Lee, Richard Henry. 1787. *Empire and Nation: Letters from a Farmer in Pennsylvania (John Dickinson). Letters from the Federal Farmer (Richard Henry Lee)*. McDonald, Forrest (Ed). Indianapolis: Liberty Fund, 1999.

- Lewis-Beck, Michael S., and Tom W. Rice. 1992. *Forecasting Elections*. Washington, DC: Congressional Quarterly Press.
- Lintott, Andrew (1999). *The Constitution of the Roman Republic*. Oxford University Press.
- Locke, John. 1965. *Two Treatises of Government*. New York: New American Library.
- Lyons, Michael. 2003. "Win, Lose or Draw: Reapportionment, Redistricting Strategy, and Electoral Outcomes for the U.S. House Elections, 1972-2002." Presented at the Annual Meeting of the Midwest Political Science Association, Chicago.
- Madison, James. "The Constitution of the United States." <http://www.archives.gov/exhibits/charters/constitution.html> (accessed December 16, 2010).
- Maestas, Cherie. 2000. "Professional Legislatures and Ambitious Politicians: Policy Responsiveness of Individuals and Institutions." *Legislative Studies Quarterly* 25(4):663-690.
- March, James G. 1957/58. "Party Legislative Elections as a Function of Election Results." *Public Opinion Quarterly* 11:521-42.
- Mason, George. "The Virginia Declaration of Rights" http://www.archives.gov/exhibits/charters/virginia_declaration_of_rights.html (accessed December 7, 2010).
- Mayhew, David. 1974. *Congress: The Electoral Connection*. Yale University Press.
- McDonald, Michael P. and John Samples, eds. 2006. *The Marketplace of Democracy: Electoral Competition and American Politics*.
- McKay, Robert B. 1965. *Reapportionment: The Law and Politics of Equal Representation*. New York: Twentieth Century Fund.
- Mercurio, John. "Between the Lines." *Roll Call*, July 2, 2001
- Miller v. Johnson*, 515 U.S 900 (1995)
<http://supreme.justia.com/us/515/900/case.html> (accessed 4/1/11)
- Mises, Ludwig von. *Liberalism: A Socio-Economic Exposition*, trans. Ralph Raico, ed. Arthur Goddard (Kansas City: Sheed Andrews and McMeel,

- Inc., 1978)
- Montesquieu, Charles-Louis de Secondat. 1748. *The Spirit of the Laws*, Thomas Nugent (trans.), New York: MacMillan, 1949.
- Niemi, Richard C, and Laura R. Winsky. 1992. "The Persistence of Partisan Redistricting Effects in Congressional Elections in the 1970s and 1980s." *Journal of Politics* 54: 565-72.
- "Nonpartisan Redistricting Process." 2011.
<http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2011&BillID=H824&submitButton=Go>
- North Carolina Coalition for Lobbying & Government Reform.
<http://www.nclobbyreform.org/issues/members-on-reform.php> (Accessed October 10, 2011)
- North Carolina Democratic Party. 2011. "Lawsuit Filed to Challenge Gerrymandered Redistricting Plan."
<http://www.ncdp.org/news/entry/lawsuit-filed-to-challenge-gerrymandered-redistricting-plan/>
- North Carolina General Assembly. <http://www.ncga.state.nc.us/> (Accessed July 15, 2011)
- North Carolina State Constitution. The North Carolina General Assembly.
<http://www.ncga.state.nc.us/legislation/constitution/nccconstitution.html>
(accessed 3/1/11)
- Patterson, Samuel C., and Gregory Caldeira. 1984. "The Etiology of Partisan Competition." *American Political Science Review* 78:691–707.
- Payne, E.J. (Ed). 1990. *Select Works of Edmund Burke*. Indianapolis, IN: Liberty Fund, Inc.
- Peck, Don, and Casey Caitlin, 2004. "Packing, Cracking and Kidnapping", *Atlantic Monthly* Vol. 293(1).
- Pildes, R. H. 1997. "Principled limitation on racial and partisan redistricting." *Yale Law Journal*, 106, 2505-2561.
- Pildes, R.H. 2000. Democracy, Anti-Democracy, and the Canon," 17 *Constitutional Commentary* 295

- Pildes, R.H. and Richard Niemi. 1993. "Expressive Harms, 'Bizarre Districts,' and Voting Rights: Evaluating Election-District Appearances After Shaw v. Reno," 19 *Michigan Law Review* 483.
- Pitkin, Hannah. (1967) *The Concept of Representation*. University of California Press.
- Plato. "The Laws." <http://classics.mit.edu/Plato/laws.html> Trans. Benjamin Jowett. (accessed December 7, 2010).
- Polsby, Nelson W. 1971. *Reapportionment in the 1970s*. Berkeley: University of California Press
- Public Mapping Project <http://www.publicmapping.org/> Accessed November 1, 2011.
- Rae, Douglas. 1967. *The Political Consequences of Electoral Laws*. New Haven: Yale University Press.
- Ranney, Austin. 1965, 1971, 1976. "Parties in State Politics." In *Politics in the American States*, 3 editions, ed. H. Jacob and K.N. Vines. Boston: Little, Brown.
- Ranney, Austin and W. Kendall. 1954. "The American Party Systems." *American Political Science Review* 48: 477-85.
- Ray, D., and J. Havick. 1981. "A Longitudinal Analysis of Party Competition in State Legislative Elections." *American Journal of Political Science* 25: 119-28.
- "Redistricting Reform/Constitutional." 2005.
<http://www.ncleg.net/sessions/2005/bills/house/html/h1425v1.html>
- Reock, Ernest C. 1961. "A Note: Measuring Compactness as a Requirement of Legislative Apportionment." *Midwest Journal of Political Science*. 5, 70-74.
- Reynolds v. Sims*, 84 S. Ct. 1362 (1964)
<http://supreme.justia.com/us/377/533/case.html> (accessed 4/1/11)
- Roberts, Sam. "Census Bureau's Counting of Prisoners Benefits Some Rural Voting Districts," *New York Times*, Oct. 23, 2008, at A12.
- Robertson, Gary. 2011. "Second N.C. redistricting lawsuit filed." *Charlotte Observer*. <http://www.charlotteobserver.com/2011/11/05/2748816/second-nc-redistricting-lawsuit.html>

- Rosenthal, Alan. 1993. "The Legislative Institution-In Transition and At Risk." In *The State of the States*, 2d ed., ed. C.E. Van Horn. Washington: CQ Press.
- Schaffner, Brian F., Michael W. Wagner, and Jonathan Winburn. 2004. "Incumbents Out, Party In? Term Limits and Partisan Redistricting in State Legislatures." *State Politics and Policy Quarterly* 4:396-414.
- Schlesinger, Joseph A. 1955. "A Two-Dimensional Scheme for Classifying the States According to Degree of Inter-party Competition." *American Political Science Review* 49: 1120-28.
- Schmeckebier, Laurence F. 1941. *Congressional Apportionment*. Washington, DC: Brookings Institution.
- Schattschneider, E.E. 1942. *Party Government*. New York: Farrar and Rinchart, Inc.
- Shaw v. Reno*, 509 U.S. 630 (1993)
<http://supreme.justia.com/us/509/630/case.html> (accessed 4/1/11)
- Shughart, William. "Public Choice."
<http://www.econlib.org/library/Enc/PublicChoice.html> (Accessed December 19, 2011)
- Simmons, John A. 1976. "Tacit Consent and Political Obligation." *Philosophy & Public Affairs* 5: 274-291.
- Smith v. Allwright*, 321 U.S. 649 (1944) <http://supreme.justia.com/us/321/649/> (accessed 4/21/11)
- Squire, Peverill. 1989. "Competition and Uncontested Seats in U.S. House Elections." *Legislative Studies Quarterly*. 14:281-95.
- Squire, Peverill. 1993. "Professionalization and Public Opinion of State Legislatures." *Journal of Politics* 55:479-91.
- Squire, Peverill. 2000. "Uncontested Seats in State Legislative Elections." *Legislative Studies Quarterly* 25:131-46.
- Stevens, John. 1787. *The Documentary History of the Ratification of the Constitution*. Kaminski, John P. and Gaspare J. Saladino (Eds). Vols. XIII-XVI. Madison: State Historical Society of Wisconsin, 1981.
- Stone v. Hechler*, 782 F. Supp. 1116, 1127 (W. Va. 1992).

- Teaford, Jon C. 2002. *The Rise of the States: Evolution of American State Government*. Baltimore: Johns Hopkins University Press
- Theil, Henri. 1970. "The Cube Law Revisited." *Journal of the American Statistical Association*. 65:1213-19.
- Thornburg v. Gingles*, 478 U. S. 30 (1986) <http://supreme.justia.com/us/478/30/> (accessed 4/1/11)
- Tidmarch, Charles M., Edward Lonergan, and John Sciortino. 1986. "Interparty Competition in U.S. States: Legislative Elections, 1970-1978." *Legislative Studies Quarterly* 11:353-74.
- Tucker, Harvey J., and Ronald E. Weber. 1993. "Electoral Change in U.S. States: System Versus Constituency Competition." In *Changing Patterns in State Legislative Careers*, ed. Gary Moncrief and Joel Thompson. Ann Arbor: University of Michigan Press.
- Tufte, Edward. 1973. "The Relationship between Seats and Votes in Two-Party Systems." *American Political Science Review* 67:1540-54.
- Van Dunk, Emily. 1997. "Challenger Quality in State Legislative Elections." *Political Research Quarterly* 50:793-807.
- Van Dunk, Emily and Ronald E. Weber. 1997. "Constituency-Level Competition in the United States, 1968-1988: A Pooled Analysis." *Legislative Studies Quarterly*, Vol. 22, No. 2: 141-159.
- Voting Rights Act (1965) Right to Vote Initiative.
<http://archive.fairvote.org/?page=1327> (accessed 3/20/11)
- Vieth et al. v. Jubelirer, President of the Pennsylvania Senate, et al.* 541 U.S. 267 (2004) <http://supreme.justia.com/us/541/267/> (accessed 4/1/11)
- Virginia Bill of Rights. http://constitution.org/bor/vir_bor.htm. (Accessed December 1, 2010).
- Weber, Max; David S. Owen; Tracy B. Strong; and Rodney Livingstone. 2004. *The Vocation Lectures: Science As a Vocation, Politics As a Vocation* Cambridge: Hackett Pub Co., Inc.
- Weber, Ronald E., Harvey J. Tucker, and Paul Brace. 1991. "Vanishing Marginals in State Legislative Elections." *Legislative Studies Quarterly* 16:29-47.
- "What Will the Full Commission Do?" 2012.
<http://wedrawthelines.ca.gov/commission.html>

Winburn, Jonathan. 2008. *Realities of Redistricting: Following the Rules and Limiting Gerrymandering*. Plymouth: Rowman and Littlefield.

Wrighton, J. Mark, and Peverill Squire. 1997. "Uncontested Seats and Electoral Competition for the U.S. House of Representatives Over Time. *Journal of Politics* 59:452-68.